



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No: 8669-22
Ref: Signature Date



Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 5 December 2022. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, to include the Kurta Memo and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).

You enlisted in the U.S. Marine Corps and began a period of active duty on 11 September 1979. In March 1980, you were disenrolled from BEE (basic electricity and electronics) school. On 9 September 1982, you were found guilty at a summary court-martial (SCM) of a period of unauthorized absence (UA) and sentenced to confinement at hard labor for one month, to forfeit one-half month's pay, and to be reduced in rank to E-3. On 29 July 1982, you were referred to the Joint Drug and Alcohol Center for evaluation and were subsequently enrolled in a 30 day program for group therapy and classroom instruction. Your record shows that halfway through the program your condition deteriorated and it was recommended that you receive additional treatment. On 25 March 1983, you were found guilty at a second SCM of two additional specifications of UA and sentenced to confinement at hard labor for 30 days, to forfeit two thirds

pay for one month, and to be reduced in rank to E-2. You were subsequently diagnosed as alcohol dependence and recommended for further treatment.

Unfortunately, all of the documents related to your administrative separation are not in your official military personnel file (OMPF). In this regard, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Your Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that you were separated from the Marine Corps on 14 October 1983 with a General (Under Honorable Conditions) (GEN) characterization of service, your narrative reason for separation is "Completion of Required Active Service (USMC) EAS," your separation code is "MBK1," and your reenlistment code is "RE-4."

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to upgrade your discharge and contentions that; (1) you are ashamed of your past behavior, (2) your indiscretions happened at the end of your enlistment and although this does not excuse your behavior, you served faithfully prior to your actions, (3) you were under the influence of alcohol, made foolish decisions and went UA, (4) you have since raised a family, attended college, received your associates degree, and own your own business. For purposes of clemency and equity consideration, the Board noted you provided supporting documentation describing post-service accomplishments and advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your SCMs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed complete disregard for military authority and regulations. Further, the Board considered that you already received a large measure of clemency when you were discharged with a GEN characterization of service at the end of your required active service instead being processed for a pattern of misconduct. The Board determined that an Honorable discharge was appropriate only if the Marine's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. The Board concluded by opining that certain negative aspects of your conduct and/or performance outweighed the positive aspects of your military record and that a General (Under Honorable Conditions) discharge characterization and no higher was appropriate. While the Board commends your post-discharge accomplishments and good character, even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting an upgraded characterization of service as a matter of clemency or equity. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in

mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

1/9/2023



Executive Director

Signed by: █