

DEPARTMENT OF THE NAVY

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

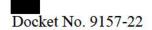
> Docket No. 9157-22 Ref: Signature Date

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 30 January 2023. 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 the 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 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 Reserve on 15 October 1987. On 18 September 1989, you were enrolled in the Platoon Leadership Course (PLC); an undergraduate commissioning program. On 30 October 1990, you requested to be disenrolled from the PLC as a result of your plans to continue your education via graduate school. You further disclosed you would not able to complete PLC or accept a commissioning. Subsequently, your request was approved and, on 19 November 1990, were disenrolled from PLC and issued orders to extended active duty. You were directed to report to the Marine Corps Reserve Center no later than 30 November 1990. You failed to report for duty and commenced a period of unauthorized absence ending in your apprehension 16 days later. On 16 April 1991, you were found guilty at a General Court-Martial (GCM) of desertion and missing movement and were sentenced to be confined for 14 months, forfeiture of all pay and allowance, reduction in rank to E-1, and a Dishonorable Discharge (DD). On 27 July 1992, your sentenced was affirmed. On 12 August 1992, you were so discharged.



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 characterization of service and have your rank, awards, performance evaluations, pay and allowances reinstated, along with your contention that you were a conscientious objector who did not want to participate in _______. You assert that your beliefs led to your mistreatment and discharge. For purposes of clemency and equity consideration, the Board noted you provided college transcripts but no 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 GCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your misconduct showed a complete disregard for military authority and regulations. The Board also considered the timing of your decision to desert from your unit and the discrediting nature of your conduct. Finally, the Board noted you provided no evidence to substantiate your contentions. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant a DD. While the Board carefully considered the evidence you submitted in mitigation, 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 granting you the relief you requested or granting relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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 the 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.

