



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. 9428-22
Ref: Signature Date

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Dear █

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 8 March 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 and began a period of active duty on 4 September 1980. Upon completion of your obligated service you immediately reenlisted, on 16 September 1983, and commenced a second period of active duty.

On 15 March 1984, you received non-judicial punishment (NJP) for failure to obey a lawful order. You elected to appeal your NJP but it was denied by higher authority. On 21 June 1984, you received your second NJP for unauthorized absence (UA). You were given two counseling warnings on 21 November 1984, for your pattern of misconduct, as evidenced by your two NJPs, along with your lack of motivation, initiative and poor performance.

On 22 August 1985, you received your third NJP for failure to pay just debts. You subsequently were issued a counseling warning for financial management and for your failure to pay your debts. You were given your fourth NJP, on 8 April 1986, for a two hour UA.

Unfortunately, some documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, 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 Navy on 19 August 1986 with an General under Honorable characterization of service, your narrative reason for separation is "Misconduct – Minor Disciplinary Infractions," your separation code is "HKN," and your reenlistment code is "RE-3C."

Post-discharge, you made a request to the National Personnel Records center for correction on 22 March 2001, they confirmed your service time of 5 years 11 months 16 days of active service as indicated on your DD Form 214. You also requested Headquarters Marine Corps make correction to your reentry code in May 2001, and that request was also denied.

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 for an upgrade in your characterization of service and a change to your time of service show six years served instead of three. You contend that you served six years in the Marine Corps and have been an upstanding citizen since your discharge. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or 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 four NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that it showed a complete disregard for military authority and regulations. The Board also considered the likely negative effect your conduct had on the good order and discipline of your unit. As a result, the Board concluded significant negative aspects of your active service outweigh the positive aspects and continues to warrant a General (Under Honorable Conditions) characterization. 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.

Finally, in reviewing your record, the Board noted that your DD Form 214, for the period ending 19 August 1986, accurately captures your first period of active duty service in block 12.d. along with your second period in block 12.c. In total, your record shows you served five years, 11 months, and 16 days of active duty. Therefore, the Board found no error or injustice with your documented time in service. 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,

3/21/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]