



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

█  
Docket No. 0383-23

Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 27 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, 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

On 2 December 1983, you enlisted in the Marine Corps with a waiver for a traffic violation and experimental use of marijuana. On 5 March 1984, you began a period of active duty. On 4 December 1984, you received nonjudicial punishment (NJP) for failure to obey a lawful order by consuming and being in possession of alcohol in the barracks. On 10 December 1984, you were counseled concerning your previous violations leading to NJP. You were advised that failure to take corrective action could result in administrative separation. On 5 November 1985, you received a second NJP for wrongful use of a controlled substance-THC. On 21 January 1986, you began a period of unauthorized absence (UA) which lasted five minutes and resulted

in NJP on 30 January 1986. On the same date, the suspended portion of your previous NJP sentence was vacated.

On 11 February 1986, the suspended portion of your previous NJP sentence was vacated. However, on 12 February 1986, your NJP appeal was granted. Subsequently, the vacated NJP punishment imposed by your commanding officer (CO), on 11 February 1986, was set aside.

On 24 March 1986, you began a second period of UA which lasted 9 hours, 30 minutes, and resulted in your fourth NJP on 8 April 1986. On 7 June 1986, you began a third period of UA which lasted one-day. On 19 June 1986, you received a fifth NJP for disobeying a lawful order by operating a motor vehicle with a suspended license and a period of UA. As a result, on 25 June 1986, you were notified on the initiation of administrative separation by reason of misconduct due to pattern of misconduct. On 30 June 1986, you decided to waive your procedural rights. On 2 July 1986, your CO recommended an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to pattern of misconduct. On 17 July 1986, the separation authority approved the recommendation. On 25 July 1986, 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 for a discharge upgrade and contentions that: (a) your mother became very ill and was hospitalized, (b) your mother was alone without anyone to take care of her, and (c) you went to your first sergeant who prepared the paperwork to separate you from the Marine Corps. 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 NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact it had on the good order and discipline of your unit. Further, the Board noted you provided no evidence to substantiate your contentions. Finally, contrary to your implied contention that you were separated as a result of your family related hardships, the Board found that you were discharged based on your history of misconduct. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH 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. 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.

Sincerely,

4/14/2023

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Executive Director

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