



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

██████████
Docket No. 6991-23
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 23 October 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).

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.

You enlisted in the U.S. Marine Corps Reserve and commenced a period of active duty on 14 March 1994. After completing your initial training, you were released to the Marine Corps Reserve. On 26 March 1995, you were counseled regarding your unsatisfactory performance/participation in the Marine Corps Reserve. You subsequently received multiple counseling entries regarding your unsatisfactory performance/drill participation. On 6 January 1996, you were notified of your pending administrative processing for unsatisfactory participation in drills as evidenced by your numerous absences. On 16 January 1996, you waived your right to consult with counsel and to have your case heard before an administrative

discharge board. On 22 October 1996, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service by reason of your failure to participate in your required drills. On the same day, 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 discharge and your contentions that: (1) you had a speech impediment, could not swim, and were harassed and assaulted because of this, (2) you suffered from hernia problems and complained about this but never received help or treatment, (3) you developed a tumor on your neck which grew when you were home and you had to have a civilian doctor remove it, (4) you were young, immature, felt abandoned and alone, and started drinking during weekend drills to escape your problems, (5) your attempts to tell your SGT/E-5 went unheard, and (6) you suffered from mental problems, needed help, and years later are still trying to find closure. Additionally, the Board noted you checked the "PTSD" and "Other Mental Health" boxes on your application but chose not to respond the Board's request for medical evidence in support of your claims. For purposes of clemency and equity consideration, the Board noted you provided a personal statement and official military personnel file documents for consideration.

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 multiple missed drill participation and unsatisfactory performance as a Marine Corps reservist, outweighed these mitigating factors. The Board noted you provided no evidence to substantiate your contentions and was not persuaded by your mitigation arguments. 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. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find 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 is attached 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,

11/6/2023

