



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. 7322-23
Ref: Signature Date



Dear █:

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 29 November 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 to 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 Marine Corps Reserve while attending college and signed a statement of understanding regarding the required drills and training periods incident to your contracted period of service. You served an initial period of active duty beginning 5 June 2000 and were honorably discharged on 24 January 2001 after completing the required active service for your initial active duty training. Prior to your discharge from active duty, on 12 January 2001, you confirmed your permanent mailing address for correspondence. Although your Record of Processing when you initially enlisted reflected "none" for religious preference, at some point it was changed to "Roman Catholic" based on your 24 February 2001 Basic Information Record.

You initially sought to apply for Platoon Leaders Class (PLC) with an aviation guarantee; however, records discussing your qualifications indicate that your academic courses lacked sufficient mathematics. Instead, you applied to PLC Ground option and continued your academic studies. You missed drills from 7 through 10 June 2001, but your absences were

excused. E-mail correspondence from 12 December 2001 indicates that you requested financial assistance with education expenses due to hardship which, based on subsequent recoupment notices, appears to have been coordinated for your benefit.

On 14 December 2001, you took a Defense Language Proficiency Test (DLPT) level IV for Arabic language; however, an administrative counseling entry indicates that you “refused to complete the last two portions” of the exam. You were subsequently absent from required drill on 5 April 2002 and issued administrative counseling documenting the unauthorized absences (UA). The following month, a request was submitted on your behalf to adjust your commissioning date to 24 August 2002 due to not having passed a course and failing to complete your required course load on schedule, which resulted in a resetting of your undergraduate graduation date. In light of this concern, subsequent correspondence indicated that your appointment would require proof of your degree. Although you were required to attend drills during the months of June and July of 2002, you failed to do so but your absences for those missed drills were excused.

On 23 September 2002, although you were in good academic standing and anticipated to graduate in December of 2002, you were formally disenrolled from the PLC Program after refusing commissioning. Consequently, your service records were returned to your reserve drill unit. In your statement regarding your decision to decline your commission through PLC, you stated that you had received a calling to become an Imam and intended to fulfill your commitment by serving in the Chaplain Corps. Your biographical data during this period continued to reflect your local address and home of record/permanent address.

Beginning in December of 2002, you began repeatedly missing your monthly mandatory drill periods. The first time, in December 2002, your absence was again excused; however, you were issued administrative counseling regarding your missed drills during 11 and 12 January 2003. You were also issued written notice of collection of debt for the tuition assistance previously granted to you contingent upon your participation in the PLC commissioning program. Your biographical data during this period reflected that your address remained unchanged but that you had changed your religious preference to “Muslim.” From February 2002 through June 2003, you continued to miss drills with an initial notification of discharge proceedings by reason of unsatisfactory participation in the ready reserve due to nine or more missed drills sent to your address of record. On 11 June 2003, the commanding officer of your drilling unit recommended your discharge under Other Than Honorable (OTH) conditions due to the extent of your UAs. This letter also stated, without further elaboration, that your “radical behavior” was detrimental to the unit.

From August 2003 through January 2004, you missed an additional six months of routine drill periods. You were issued a second notification of discharge proceedings, which was sent to your home of record address via certified mail a proof of service, and your command afforded you another four months to respond. Your acknowledgment of rights, however, was never returned, and your commanding officer again forwarded a recommendation for your discharge under OTH conditions. Commander, Marine Forces Reserve, approved your separation as recommended and you were discharged from the Marine Corps Reserve with an OTH for unsatisfactory participation in the Ready Reserve.

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 to “Honorable” and your contentions that your desire to become a pilot was viewed suspiciously, other Marines treated you like a suspected terrorist, your sergeant threw your Quran on the ground and told you to stop reading that “trash,” the Arabic language test you were given was beyond the proficiency you requested, you believe you were punished for not finishing the test, you believe not finishing the test made other Marines think you was hiding something, after the incident with the test, you claim your tires were slashed while on post and you feared for your physical safety, after not completing the test, you claim you began receiving menial duties, you were accepted to Islamic Seminary and requested a transfer to serve as a Navy Chaplain, your request was treated like an interrogation by your commanding officer, your commanding officer “cleared his desk, placed a large “Old Testament bible” in front of you, and questioned your loyalty to the nation, you were lectured that the War on Terror was a war on Islam, your commanding officer would not “approve” your transfer and, instead, recommended “soul searching,” you deny having any “radical behavior” and point to the lack of any counseling regarding such behavior, you did not return for drills in 2003 “after discussion with [your] base commander and staff sergeant” in part “due to intimidating, offensive and hostile actions and statements by his commanding officer, staff sergeant and other marines, ” you were led to believe at the time you left the base that you had been separated, and, you believe your post-discharge behavior merits consideration of clemency. For the purpose of clemency and equity consideration the Board considered the entirety of evidence you provided in support of your application including your resume, your diploma, an award citation, a letter of recommendation, a background check, character letters, service records, and your personal statement.

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 missed drills and failure to satisfactorily participate in the Ready Reserve, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. Although the Board noted the possibility that you might have experienced negative or inappropriate reactions after deciding to convert from one religion to a different religion, the Board found insufficient evidence to support your claims in that regard. With respect to your contention that your “request” to enter seminary and become an Imam as a military chaplain, the Board observed that there is a distinct process not only for seeking sponsorship into the chaplaincy but also for seeking the necessary Secretarial approval(s) to transfer between services, given that the Marine Corps does not commission officers to serve as chaplains. Therefore, the Board found this argument without merit. Regarding your commanding officer’s reference to your “radical” behavior, the Board applied a presumption of regularity and found no error or injustice with his language based on the lack of context. The Board considered that a senior officer choose to include such information in official correspondence, presumably, after having observed certain behavior to merit such a comment and determined it was appropriate in light of the recommendation for your separation, which was ultimately reviewed and approved by Commander, Marine Forces Reserve.

Ultimately, you chose to enlist into the Marine Corps Reserve with an understanding that you were required to attend mandatory drill periods. Your decision to decline your commission did not alter your continued obligation under your enlistment contract, nor did you present any

evidence that you pursued any informal or formal resolution of the alleged treatment you claim to have received, such as filing an equal opportunity complaint, submitting a request to the Inspector General, or pursuing an alternative means of discharge. Although you make numerous claims of wrong, you presented no substantiating evidence in support of those claims. In spite of your claim that your absences resulted from a mistaken belief that you had already been separated, the Board noted that you appear to have accrued excessive absences prior to any such notice being documented. Although you appear to have continued a multitude of academic pursuits toward your chosen profession and appear to invest considerable time writing and publishing academic works, the Board found this post-service evidence insufficient to alter the fact that you unilaterally decided not to honor your contractual obligation by simply choosing not to participate in any required drills. 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. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge accomplishments, 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 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,

12/26/2023

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