



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

█  
Docket No. 7707-23  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 27 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 this 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 Marine Corps and began a period of active service on 6 July 1979. On 2 November 1979, you received non-judicial punishment (NJP) for larceny of government property-results of an examination, and wrongfully receiving unauthorized aid by using the examinations. You were counseled regarding your misconduct and notified further deficiencies in conduct may have a detrimental effect on your security clearance.

Based on your medical history, a medical evaluation board was conducted on 23 April 1980. The medical evaluation board diagnosed you with chronic low back pain and your case was forwarded to the Physical Evaluation Board (PEB). On 9 July 1980, the PEB found you to be physically fit to perform the duties of your rank.

Between 5 June 1980 to 22 August 1980, you were counseled on three occasions for shirking on duty, and your poor attitude. Subsequently, you were notified of your recommendation for discharge, due to your inability to perform as a Marine, pursuant to the Marine Corps Expeditious Discharge Program. On 4 September 1980, you received NJP for willfully

disobeying a lawful order. The separation authority approved and directed your separation by reason of the Marine Corps Expeditious Discharge program. On 1 October 1980, you were so discharged with a General (Under Honorable Conditions) (GEN) character of service by reason of convenience of the government.

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 characterization to Honorable and contentions that you were supposed to get a medical discharge. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded your 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 concluded it showed a complete disregard for military authority and regulations. Further, the Board found no evidence that you were processed for a medical discharge and noted the PEB found you fit for full duty. Therefore, based on your record of misconduct and multiple counselings, the Board concluded you were appropriately processed for separation for convenience of the government. As a result, the Board concluded significant negative aspects of your service outweighed the positive aspects and continues to warrant a GEN 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 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,

12/17/2023

