



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. 7898-23
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 8 December 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 duty on 20 January 1981. On 8 June 1981, you received non-judicial punishment (NJP) for unauthorized absence (UA) from your appointed place of duty. On 19 August 1981, you were placed in your company's alcohol rehabilitation program. On 4 September 1981, you received NJP a second time, for an orders violation for consuming alcohol within eight hours of your assigned duty as security watch. Four days later, on 8 September 1981, you again received NJP. On this third occasion, it was for disrespect toward a superior commission officer, assault of a fellow Marine at the enlisted club, and drunk and disorderly behavior while in uniform. On 2 October 1981, you were counseled for unsatisfactory progress in the alcohol rehabilitation program, were ordered not to drink alcohol for a period of two weeks, and ordered not to be within three feet of the Marine you assaulted. You were also told the enlisted club was off-limits. Nonetheless, on 21 October 1981, you received NJP a fourth time, for four instances of drunk and disorderly conduct, which

included, among other actions, throwing rocks at another Marine, and trying to provoke a fight. You were then formally counseled for frequent involvement with military authorities, and cautioned further involvement may result in disciplinary action or discharge. On 29 October 1981, you were found guilty at Summary Court-Martial (SCM) of UA and incapacitation for the proper performance of your duties. You were sentenced to 30 days confinement at hard labor, forfeiture of \$250.00 per month for one month, and reduction in rank to E-1. On 15 December 1981, you received NJP again, for two instances of UA, three orders violations, and three assaults on fellow Marines. Consequently, you were also notified of administrative separation proceedings by reason of misconduct due to frequent involvement of a discreditable nature with military authorities and you waived your rights in the administrative separation process. On 15 January 1982, upon completion of the administrative separation process, you were discharged with an Other Than Honorable (OTH) characterization of service.

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 change your discharge character of service and your contentions that: (1) you joined the Marine Corps when you were 17, and were told by recruiters you would be assigned the Aircraft Mechanic MOS, (2) instead you were put in infantry as a 0341 Mortar Man, (3) after graduating infantry training at ██████████, you were sent to ██████████ but instead of being assigned with your infantry peers and classmates, you were sent to HQ to be the message runner and clean toilets, (4) you were very disappointed not to be doing what you were trained to do, and began to drink, (5) because you were only 17, you lost control, (6) your CO asked if you wanted out, and you said yes, and (7) at 17, you didn't realize the mistake you were making, and you were told your discharge could be changed. For purposes of clemency and equity consideration, the Board noted you did not provide any documentation, such as a personal statement or advocacy letters, supporting your post-service activities or accomplishments.

After thorough review, the Board concluded the potentially mitigating factors contained in your contentions were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and SCM, outweighed these possibly 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. The Board also considered the negative impact your conduct likely had on the good order and discipline of your unit. Further, the Board noted you were given multiple opportunities to rehabilitate yourself, including participation in alcohol rehabilitation, but continued to commit the same misconduct. Finally, the Board also noted you did not provide any evidence to substantiate your contentions and the Board was not persuaded by your mitigation arguments regarding your youth or assignment outside of your MOS. 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 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,

1/9/2024

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