



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. 9663-23

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 22 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 the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

During the enlistment process you acknowledged the requirement to participate in 48 scheduled drills and not less than 14 days of annual training per year for eight years upon completion of initial active duty training. On 22 July 1991, you enlisted in the U.S. Marine Corps Reserve (USMCR) and began active duty for training (ACDUTRA) on 15 October 1991. You completed ACDUTRA on 24 April 1992 and were transferred to the USMCR. Subsequently, you had nine unexcused absences and were warned that you were not eligible for promotion because of your chronic unauthorized absence (UA)

Unfortunately, some documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. In the Separation Authority's (SA) May 1997 approval letter for separation, it reveals that you were separated from

the Marine Corps with an Other Than Honorable (OTH) characterization of service, your narrative reason for separation is “Failure to Participate (Reserve not on active duty (without board)),” your separation code is “HSG1,” and your reenlistment code is “RE-4.”

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 was not limited, your request to upgrade your characterization of service and contentions that in 1997 a new company commander was assigned to your station and ordered you to go back to active duty status for training for an undisclosed amount of time, you had just started a new business and leaving would have been detrimental to your business, you believed that you had fulfilled your obligation through the completion of OJT hours, and the OJT would have been more than comparable for any schooling you were required to attend. 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 that your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your unexcused absences from drills, 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. The Board also considered that you failed to fulfill your contractual obligation to the Marine Corps. Finally, the Board noted that you did not provide any evidence to substantiate your contentions. Regardless, the Board was not persuaded by your mitigation arguments and concluded that you intentionally chose to ignore your military obligations in favor of personal gain. 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,

12/7/2023

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Executive Director

Signed by: █