



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

■
Docket No. 10225-23
Ref: Signature Date



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 29 January 2024. 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, 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 Reserves and began a period of active duty on 22 May 1979. On 17 August 1979, you were released from your initial tour of active duty for training.

On 25 February 1981, you enlisted in the Marine Corps and began a second period of active duty service. On 18 September 1981, you began a period of unauthorized absence (UA) which lasted five-days and resulted in nonjudicial punishment (NJP) on 6 October 1981. On 19 November 1981, you were counseled concerning the possession of alcoholic beverages in the barracks. You were advised that failure to take corrective action could result in administrative separation. On 11 December 1981, you were counseled concerning your continuous substandard performance, including poor military bearing, work appearance, and lack of effort in all endeavors. You were advised that failure to take corrective action could result in administrative separation.

On 8 January 1982, you were diagnosed by a medical officer with antisocial personality disorder.

On 19 January 1982, you were convicted by special court martial (SPCM) for four instances of UA from appointed place of duty, disrespect towards a superior noncommissioned officer, two instances of possession of alcoholic beverages in the barracks, and failing obey regulations by not shaving. You were found guilty and sentenced to reduction to the inferior grade of E-1, confinement at hard labor for a period of 105 days, and forfeiture of pay in the amount of \$350.00 for a period of four months. Consequently, you were notified of the initiation of administrative separation proceedings by reason of expeditious discharge program. On 4 June 1982, you were discharged with a General (Under Honorable Conditions) discharge characterization by reason of expeditious discharge program.

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 for a discharge upgrade and contention that: (a) you were told that your discharge could be upgraded if you stayed out of trouble in the civilian sector, (b) you were a confused and disturbed young man who was drinking every day and not able to cope with life very well, (c) you have been out of trouble for 41 years and would be very proud to have an Honorable discharge. 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 these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP and SPCM, 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 noted that you were given the opportunity to correct your conduct deficiencies but continued to commit misconduct. Finally, regarding your post-discharge character, a detailed personal statement, and advocacy letters, whether from employers or other credible sources, may assist the Board in determining whether clemency could be appropriate.

As a result, the Board concluded significant negative aspects of your service outweighed the positive aspects and continues to warrant a General (Under Honorable Conditions) characterization. Even in light of the Wilkie Memo and reviewing the record liberally and 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 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 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,

2/27/2024

