



**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. 4960-23  
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 18 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 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).

You enlisted in the U.S. Marine Corps and began a period of active duty on 8 January 1980. You received your first nonjudicial punishment (NJP) on 2 October 1980, for violating a written order. You received two additional NJPs, on 12 November 1981 and 1 December 1982, for possessing marijuana and a period of unauthorized absence (UA), respectively. Additionally, you were counseled concerning your lack of judgement while attending school in Alabama and your aforementioned misconduct. You were advised that further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 14 April 1983, you were found guilty at a special court-martial (SPCM) of three specifications of UA and escape from lawful custody. You were sentenced to a Bad Conduct Discharge (BCD), confinement at hard labor for two months, and forfeiture of \$200.00 pay per month for two months. On 28 June 1984, your sentence was ordered executed. Ultimately, you were discharged on 22 August 1984 with a BCD.

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 Memos. These included, but were not limited to, your desire to upgrade your discharge and contentions that: (1)

you are requesting a discharge upgrade in hopes of obtaining benefits, (2) it has been 40 years since you served 3 years and 5 months of your term in an honorable fashion, (3) you became an out of control alcoholic which continued from your discharge until your incarceration, (4) there are records to support your timeline and theory, (5) you attempted suicide in 1983, (6) there are letters written to Division HQ: █ detailing your spiral into alcoholism in 1982, (7) you went TAD to █ for nuclear defense instructing only to be drunk and violent, (8) you assaulted two Soldiers, (9) while on appellate leave you raped and beat two men utilizing your POW training and the victims testified to these military style tactics, (10) your alcoholism caused your marriage to dissolve as you were violent and unable to function outside of the corps, (11) you were in prison before your discharge was final, (12) after the 1981 rotation the new command of █ never wanted to train or be field ready, (13) you were a field Marine and drank to prove it, (14) you have no right to an upgrade but are asking after 40 years because you can now face facts, (15) you had no one above or below you that thought you had a problem because you did your job [while] drunk, (16) you beat your first wife and she still won't speak to you, and (17) the records are there, the signs were evident, and you are a young man asking for help. The Board noted you checked the "Post-Traumatic Stress Disorder," and "Other Metal Health," boxes on your application but chose not to provide evidence in support of your claims. For purposes of clemency and equity, the Board noted you provided a 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 three NJPs and SPCM conviction, 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. Additionally, the Board noted you were given multiple opportunities to correct your deficiencies but continued to commit misconduct. The Board determined that your record clearly reflected your willful misconduct, demonstrated you were unfit for further service, and supports your assigned characterization of service. Finally, the Board noted you provided no evidence to substantiate your contentions and you were incarcerated for approximately 40 years. As a result, the Board concluded your conduct constituted a significant departure of that expected of a service member and continues to warrant a BCD. 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 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,

1/10/2024

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