



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. 0945-24
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 29 March 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 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 commenced a period of active service on 6 July 1983. On 13 February 1986, you began a period of UA. While on UA you received a civil conviction for writing worthless checks, for which, you were confined in county jail. Your UA ended with your surrender on 11 March 1986 and you received NJP for the period of UA and missing ship's movement on 18 April 1986. On the same day, you were counseled regarding your receipt of NJP.

Your sentence of confinement for your civil conviction was suspended on 29 April 1986; however, as a result of your continued misconduct civil authorities determined you violated probation and you were sentenced to imprisonment for five months. Consequently, on 3 December 1986, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct, at which point, you waived your right to consult with counsel, and waived a hearing of your case before an administrative discharge

board. Your commanding officer recommended your separation from the Marine Corps due to your pattern of misconduct. Subsequently, the separation authority approved and directed your separation with an Other Than Honorable (OTH) characterization of service due to your pattern of misconduct. On 12 December 1986, you were so discharged.

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 characterization of service and your contentions that you proved yourself to be a good Marine by completing many different schools while in service, suffer from medical issues related to your service at ██████████, and desire veterans' benefits. For purposes of clemency and equity consideration, the Board considered your personal statement but noted you did not provide 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 multiple adverse counselings, NJP, and civil conviction outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact it had on the good order and discipline of your unit. Further, the Board took into consideration that you were warned on the consequences of your continued misconduct and continued to commit misconduct. This led the Board to conclude you showed a complete disregard for military authority and regulations. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities.

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. While the Board carefully considered the evidence you submitted in mitigation, 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Regarding your claim of exposure to contaminated water at ██████████, as a part of the Caring for ██████████ Families Act of 2012, qualifying Veterans can receive all their health care from Department of Veterans Affairs (VA) if they served on active duty at ██████████ for at least 30 days between August 1, 1953 and December 31, 1987. The Board recommends you contact the VA to determine your eligibility based on your record of service.

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,

4/22/2024

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