



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

██████████
Docket No. 4136-24
Ref: Signature Date

████████████████████
████████████████
████████████████████

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 24 July 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, 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 active duty on 14 June 1981. After a period of continuous Honorable service, you immediately reenlisted and commenced a second period of active duty on 16 June 1984. On 16 July 1985, you received non-judicial punishment (NJP) for two occurrences of unauthorized absence, neither of which exceeded one day.

On 18 December 1986, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct following an alcohol-related incident and appearing in civilian attire without authorization. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 20 August 1987, records from the base military police blotter show that you were found to have allegedly committed larceny of private property valued at about \$300 from a fellow Marine, and \$160 from another, by breaking into their wall lockers and stealing contents. You then failed

to obey a lawful order by driving under the influence of alcohol and resisting arrest, additionally, in the same occurrence, you allegedly committed assault on a Military Police Officer (MP). You then caused damage to private property, by putting an unknown acidic substance on the body and windshield of a ██████████. Lastly, you were involved in a verbal and physical altercation with your wife.

On 1 October 1987, following a report of a neighborhood disturbance, MP entering your military quarters observed they were “in shambles.” On this date, records show you were no longer able to obtain on base childcare for your children due to an outstanding bill. Several days later, on 8 October 1987, you received counseling for the unsatisfactory condition of your quarters, which had been noted in an inspection on October 1st.

On 10 October 1987, your Commanding Officer issued a letter outlining your overall circumstances. His letter included the fact your wife was then incarcerated for shoplifting and was serving a 90 day sentence, with a second 90 day sentence pending in another county following her release. Your CO stated you were filing for divorce and for a restraining order to keep your wife separated from your children.

On 12 November 1987, your official record indicates you were waiting orders to ██████████ ██████████ Alcohol Rehabilitation Center for a residential treatment program. It is unclear whether you in fact completed that program.

On 24 November 1987, you were counseled for allowing your five year old child to wander about the housing area unsupervised.

On 21 April 1988, a Competency Review Board was held concerning your situation, resulting in a recommendation that you should be reduced in rank to Lance Corporal. You were reduced in rank on 18 May 1988.

Unfortunately, not all of the documents pertinent to your administrative separation are present 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. According to the documents present in your OMPF, your Commanding General approved your involuntary separation with a General (GEN) characterization of service due to unsatisfactory performance on 14 July 1988. Additionally, based on the information contained on your Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated on 29 July 1988 with a GEN characterization of service, your narrative reason for separation was “Unsatisfactory Performance,” your reentry code was “RE-4,” and your separation code was “HHJ4,” which corresponds to “Unsatisfactory Performance.”

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 characterization of service and your contentions that you elected to waive your right to an Administrative Discharge Board (ADB) so you could get out of the military more quickly in order to take care of your

three children, because your ex-wife was going to prison. 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 your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your poor conduct, as evidenced by your NJP and multiple occurrences of counseling in your final enlistment, outweighed these mitigating factors. In making this finding, the Board considered your frequent and repetitive involvement with base law enforcement, your history of alcohol-related issues, and the result of your Competency Review Board. The Board also considered the likely negative impact your repeated involvement with base officials had on the good order and discipline of your command. Finally, the Board noted that you were given multiple opportunities to address your conduct but continued to cause disruption. Therefore, the Board felt you were fortunate to receive a GEN characterization of service for unsatisfactory performance instead of being processed for your misconduct that likely would have resulted in an Other Than Honorable characterization.

As a result, the Board concluded significant negative aspects of your service outweigh the positive aspects and continues to warrant a GEN 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,

8/21/2024

