



**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. 5557-24

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your reconsideration application on 9 August 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 U.S. Marine Corps and began a period of active duty service on or about 9 November 1992. Your pre-enlistment physical examination, on 24 September 1992, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms. You disclosed pre-service marijuana usage on your medical history.

On 31 August 1993, you received non-judicial punishment (NJP) for fourteen (14) instances of "making, drawing, or uttering checks without sufficient funds" with the intent to defraud. You presented all these checks on a Marine Corps base. A portion of your punishment was suspended for six (6) months. You did not appeal your NJP. On 29 December 1993, your

command issued you a “Page 11” counseling warning (Page 11) noting that you were not being recommended for promotion for the period of January 1994 due to indebtedness and your recent NJP. You did not elect to submit a Page 11 rebuttal statement.

On 4 January 1994, your command issued you another Page 11 warning. The Page 11 identified certain deficiencies in your performance of duty and/or personal conduct, to include: your frequent involvement with civil and military authorities, specifically your lack of responsibility, judgement, and financial irresponsibility as evidenced by your August 1993 NJP. The Page 11 expressly advised you that any further deficiencies in your performance may result in disciplinary action and in processing for administrative discharge. The Page 11 also stated that subsequent UCMJ violations could result in an under other than honorable conditions (OTH) administrative separation. You did not submit a Page 11 rebuttal statement.

On 20 January 1994, you commenced a period of unauthorized absence (UA). Your UA terminated on 27 January 1994. On 31 January 1994, the suspended portion of your August 1993 NJP was vacated and enforced due to your continuing misconduct.

On 1 February 1994, you received NJP for your seven-day UA, and for two (2) more instances of “making, drawing, or uttering checks without sufficient funds” with the intent to defraud. You presented both of these checks on U.S. Air Force bases. You did not appeal your NJP.

On 10 March 1994, your command issued you another Page 11 warning. This Page 11 documented your lack of self-discipline and exceeding the required USMC height/weight standards, and directed you to lose certain weight by a proscribed date. The Page 11 advised your that any further demonstrated shortcomings in your performance and/or conduct may result in disciplinary actions and in processing for administrative discharge. You did not elect to submit a Page 11 rebuttal statement.

On 21 March 1994, your command issued you another Page 11 counseling noting your continued misconduct as evidenced by your January UA period. The Page 11 noted that your command was now recommending you for an administrative discharge.

Consequently, your command notified you of administrative separation proceedings by reason of misconduct due to minor disciplinary infractions. You expressly waived in writing your rights to consult with counsel and to request an administrative separation board. The Staff Judge Advocate to the Separation Authority determined your separation proceedings were legally and factually sufficient. Ultimately, on 13 May 1994, you were separated from the Marine Corps for an OTH discharge characterization and were assigned an RE-4 reentry code.

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 contentions that: (a) significant mitigating factors exist relating to the record and punishment from which you seek relief, (b) due to the productive life you have lead, with years of meritorious service in the government and volunteer organizations, and (c) based on your character and reputation, candor to the board, and other factors as provided in the Wilkie Memo. For purposes of clemency and

equity consideration, the Board considered the entirety of the evidence you provided in support of your application, including your personal statement.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Marine. The Board determined that the record clearly reflected your pattern of misconduct was intentional and willful and indicated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

The Board concluded that your cumulative misconduct totaling two (2) NJPs and your deficiencies as noted in multiple Page 11 entries were as not minor in nature and that your conduct marks during your active duty career were a direct result of your serious misconduct and a repeated failure to conform to basic military standards of good order and discipline, all of which further justified your OTH characterization.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order in discipline clearly merited your discharge. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge accomplishments, 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. 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.

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,

8/14/2024

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Executive Director

Signed by: █