



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. 6087-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 15 November 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 to 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 began a period of active duty on 11 March 1994. On 9 June 1994, you accepted nonjudicial punishment (NJP) for multiple violations of the Uniform Code of Military Justice (UCMJ), to include under Article 86 for being absent from your appointed place of duty, at the guard desk, and two specifications under Article 92 for dereliction of duty by sleeping on post and for willful disobedience of a noncommissioned officer by not standing your post when told to do so. Your punishment did not include a reduction in grade, and you were not issued proficiency and conduct marks at that time. At the time of your transfer from recruit training to Marine Combat Training, you were issued initial proficiency and conduct marks of 4.4 and 4.4, respectively.

On 4 August 1994, you commenced a period of unauthorized absence that ending on 23 August 1994. From the information in your official military personnel file (OMPF), you appear to have absented yourself incident to receipt of Substance Abuse Counseling (SAC) services. On 31 August 1994, you accepted a second NJP for your second violation of Article 86 of the UCMJ by your extended period of UA. Your punishment included a reduction in grade, which resulted in the issuance of reduction proficiency and conduct marks of 3.9 and 3.9 incident to your reduction.

On 1 November 1994, you were referred to SAC for an evaluation which diagnosed you with alcohol dependence. Due to the severity of your alcohol use disorder (AUD), you were recommended for level III residential treatment. However, you refused to attend alcohol rehabilitation treatment and were identified as an alcohol rehabilitation failure. Although you also had significant misconduct incidents in your record, to include serious offenses, as documented by your two NJPs, you were notified of processing for administrative separation by reason of your alcohol rehabilitation failure with a least favorable characterization of service as General (Under Honorable Conditions) (GEN). You elected to waive your rights incident to this notification and your separation under honorable conditions was approved on 26 January 1995. Incident to your involuntary discharge on 1 February 1995, you were issued final proficiency and conduct marks of 1.9 and 1.9, respectively. At the time of your administrative separation, your final conduct average of 3.4 was below the 4.0 standard established for an Honorable characterize of service.

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 discharge and your contentions that you have worked hard to rehabilitate yourself and your character since your discharge. You attribute multiple factors which you encountered after enlisting to your initial drinking problem which you encountered during your youth, to include several significant family concerns, physical ailments for which you were prescribed pain medication, and lack of success with traditional alcohol rehabilitation avenues. You assert that, although your pain medication helped with pain, you began drinking more due to continue issues with pain and stress, but that you absented to go home in hopes that your drinking problem might improve, because you wanted to get better. You state that, post-discharge, you were able to achieve sobriety through the assistance of your church. For purposes of clemency and equity consideration, you provided your personal statement and 11 character letters attesting to your post-discharge behavior and accomplishments.

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 NJPs, 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. Further, the Board determined you already received a measure of clemency from the Marine Corps when you were processed for separation solely for the reason of alcohol rehabilitation failure, rather than for the additional reasons of pattern of misconduct and commission of a serious offense. Further, in light of the basis for which you were separated, the Board determined that your discharge should have been characterized as type warranted by service.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant a GEN characterization. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge rehabilitation, 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 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,

12/11/2024

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Executive Director

Signed by: █