



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. 6627-24
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 application on 16 September 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 15 September 1981. On 21 June 1982, you received non-judicial punishment (NJP) for unauthorized absence (UA) by failing to go to your appointed place of duty. On 26 September 1983, you again received NJP for UA between 29 July 1983 and 16 September 1983. You received a third NJP, on 17 January 1984, for three occurrences of UA, and failure to go to your appointed place of duty. You were additionally issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct related to your lackadaisical attitude, frequent UA's, and poor performance. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. Despite this, on 17 April 1984, you received a fourth NJP for UA from your appointed place of duty and, on 7 May 1984, you received a fifth NJP for disobeying a lawful order to cut the grass.

Consequently, you were notified of administrative separation processing for pattern of misconduct with an Other Than Honorable (OTH) as the least favorable characterization of service. After consulting with counsel, you waived your remaining rights, and your commanding officer recommended your discharge with an OTH. After appropriate legal review, the Commanding General approved the recommendation. On 5 June 1984, 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 change your discharge characterization of service to Honorable and your narrative reason for separation to "Secretarial Authority." You apologize for your actions and contend that you never meant to bring discredit upon yourself or your fellow Marines, you deeply regret your actions as a young Marine, you were a "dumb kid who fell into the wrong crowd at a vulnerable time" in your life, you have been unjustly stigmatized and harmed by your OTH discharge, and despite this, you have strived for success. You further contend, since discharge, you have made a distinguished career for yourself as a leader and self-starting entrepreneur as a car sales manager, boat sales manager and dealership CEO, and restaurant group manager/owner before retiring to interim work as a reservist with the ██████████. You also contend you also pursued numerous educational and technical skill certificates, including a financial broker license, master marine technician licenses for Yamaha, Mercury, and Volvo, college business courses, and notary and forklift operator certificates. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application including your legal brief, resume, and personal statement.

After thorough review, the Board concluded your 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 likely negative impact of your repeated misconduct had on your command. Specifically, the Board noted the negative impact of your many UA's on the good order and discipline of your command. Further, unexpectedly absenting yourself from your command placed an undue burden on your chain of command and fellow service members, and likely negatively impacted mission accomplishment. Additionally, the Board noted you were given opportunities to address your conduct issues but you continued to commit misconduct, which ultimately led to your OTH discharge.

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. Although the Board carefully considered the evidence you provided in mitigation and commends you on your post-service 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,

9/26/2024

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Executive Director

Signed by: █