



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

██████████
Docket No. 6854-24
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 23 October 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 began a period of active duty on 21 October 1975. You subsequently completed this enlistment with an Honorable characterization of service on 27 September 1978 and immediately reenlisted.

On 11 October 1979, you received non-judicial punishment (NJP) for failure to go to your appointed place of duty. You received your second NJP, on 10 September 1980, for one day unauthorized absence (UA). On 20 November 1980, you received your third NJP, for three days UA and failure to obey a lawful order. You were subsequently issued a counseling warning regarding bad checks and indebtedness, and advised that failure to do so is in violation of the UCMJ and may result in disciplinary action. On 7 May 1981, you were issued a second counseling warning for your poor attitude and frequent involvement of a discreditable nature with military authority and informed that continued misconduct of this nature will result in possible discharge from the service.

You received your fourth NJP, on 8 April 1981, for five specifications of writing checks without sufficient funds, two specifications of failure to obey an order or regulation by failing to pay for returned checks, larceny and wrongful appropriation, and two specifications of UA totaling two days. Consequently, you were notified of administrative separation processing for misconduct frequent involvement. After you elected your right to consult with military counsel and waived your right to an administrative board, the Commanding Officer (CO) made his recommendation to the Separation Authority (SA) that you be discharged with an Other Than Honorable (OTH) characterization. The SA accepted the recommendation and directed you be discharged for frequent involvement. You were so discharged on 12 June 1981.

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 when you got to your new command the staff sergeant was jealous of you and threaten your life. You also contend that the writing of bad checks was not true because it was not intentional, the money was in the bank, you had to take the money out of the bank to pay the rent, and a few weeks later you paid all the checks back and any charges with them. For purposes of clemency and equity consideration, the Board noted you provided a personal statement and documents from your military record, but no 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 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 noted that you were given opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which ultimately led to your discharge. Finally, the Board observed that you provided no evidence, other than your statement, to substantiate your contentions. Therefore, the Board was not persuaded that you were treated unfairly.

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. Even in light of 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,

11/17/2024

