



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

██████████
Docket No. 7540-24
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 28 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 this 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 completed three periods of Honorable service from 2 May 1980 to 7 May 1986. You immediately reenlisted and commenced another period of active duty.

On 22 August 1986, you received non-judicial punishment (NJP) for unauthorized absence (UA) from your appointed place of duty. On 18 September 1986, you were counseled for repeated NJPs and warned that continued misconduct may result in an administrative separation. On 12 February 1987, you were counseled for financial irresponsibility and warned that continued misconduct would result in your administrative separation. On 9 July 1987, you received NJP for making long distance phone calls on a government phone. On 9 May 1988, you received NJP for failing to pay a just debt. Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct and waived your rights. Your Commanding Officer recommended your discharge from the Marine

Corps with an Other Than Honorable (OTH) character of service. Subsequently, the separation authority approved the recommendation, and you were so discharged on 22 June 1988.

You previously applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request, on 9 June 1992, after concluding your discharge was proper as issued.

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 characterization of service in order to qualify for veterans' benefits. You also contend that you would like an upgrade in order to participate in the ██████████ water contamination settlement. For purposes of clemency and equity consideration, the Board noted you did not provide 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 multiple adverse counseling warnings and NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact it had on the good order and discipline of your unit. Further, the Board took into consideration that you were repeatedly warned on the consequences of your continued misconduct and continued to commit misconduct. This led the Board to conclude you showed a complete disregard for military authority and regulations. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities.

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 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.

Notwithstanding, the Board noted that if you indeed experienced any health-related issues due to contaminated Camp Lejeune water, you may not be prohibited from receiving Department of Veterans Affairs (VA) benefits due to your OTH. As long as you did not receive a dishonorable discharge and meet certain qualifying criteria, you are potentially eligible to receive certain VA benefits related to tainted water at ██████████.¹ In reviewing your record, the Board noted that you may be eligible for VA benefits based on your previous period of Honorable service.

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

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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,

12/2/2024

