



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

█  
Docket No. 8087-24  
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 30 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, 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 Reserve and began a period of active duty on 4 May 1992. On 31 August 1992, you were honorably discharged by reason of completion of required active duty service and transferred to your reserve unit. On 5 May 1995, you were notified of the initiation of administrative separation proceedings by reason of unsatisfactory participation due to unexcused drills. You waive your procedural rights by failing to respond and your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service by reason of unsatisfactory participation. On 19 June 1996, the separation authority approved the recommendation and, on 8 July 1996, 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 for a discharge upgrade and contentions that: (a) you were relocating from █ while simultaneously going through a divorce, (b) your

ex-wife took possession of both vehicles because the loan was under her name, (c) you were living in a storage unit and working over 100 hours a week to survive and pay the required support, (d) you rode your bike for 150 miles to your reserve unit on three occasions, (e) you inquired about active duty opportunities or any options because riding across the █ on regular basis was not going to allow you to maintain employment. For purposes of clemency and equity consideration, the Board noted you provided a personal statement.

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 unsatisfactory participation in the Marine Corps Reserves, outweighed these mitigating factors. Additionally, the Board noted you provided no evidence, other than your statement, to substantiate your contentions. The Board observed that you performed your Reserve duties satisfactorily through 31 December 1994 and, more likely than not, well aware of how to remain in contact with your chain of command. In particular, the Board noted the efforts your command made to contact you after you commenced your unauthorized absences; including involving your civilian employer. Therefore, the Board was not persuaded by your contentions.

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.

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 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,

10/23/2024

