



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. 8368-24
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 9 December 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).

During your enlistment processing, you disclosed marijuana use. Despite this admission, you were granted the opportunity to enlist. You enlisted in the U.S. Marine Corps and began a period of active service on 15 August 1984. Between 6 November 1985 through 14 April 1987, you received three nonjudicial punishments for violations of the uniform code of military justice (UCMJ) ranging from unauthorized absence (UA) to violating a general order and making a false official statement. On 4 December 1987, you received a fourth NJP for violating a lawful order and making a false statement. You were awarded a reduction in rank, restriction, extra duties, and forfeitures, of which your forfeitures were suspended for six months. On 31 December 1987, your forfeitures were vacated due to your continued misconduct.

On 8 January 1988, you were convicted by a summary court-martial (SCM) of two specifications of failing to go to your appointed place of duty, assault, and drunk and disorderly conduct. You

were sentenced to be confined for 30 days, to forfeit \$447.00 pay per month for one month, and to be reduced in rank to E-1. Consequently, you were notified of your pending administrative processing by reason of misconduct due to a pattern of misconduct, at which time you waived your rights to consult with counsel and to have your case heard before an administrative discharge board. Your commanding officer forwarded your administrative separation package to the separation authority (SA) recommending you be discharged with an Other Than Honorable (OTH) characterization of service. Ultimately, the SA approved the recommendation and you were so discharge on 10 May 1988.

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 character of service and to change your narrative reason for separation to Secretarial Authority. You contend that: (1) it has been 34 years since your discharge, during which you have maintained consistent employment and earned numerous professional certifications, (2) you take full responsibility for your actions and continue living a life that reflects the values of the Marine Corps, and (3) allowing your discharge to remain a source of regret and remorse would be an injustice. For purposes of clemency and equity consideration, the Board considered the evidence you submitted in support of your application.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs and SCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct showed a complete disregard for military authority and regulations. Additionally, the Board noted you were provided multiple opportunities to correct your conduct deficiencies but you continued to commit additional misconduct; which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently serious to negatively affect the good order and discipline of your command.

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. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge 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,

1/10/2025

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