



**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. 8700-24  
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 18 November 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy after disclosing pre-service marijuana use and commenced active duty on 17 September 1980. On 10 November 1980, you were issued an administrative remarks (Page 13) counseling concerning deficiencies in your performance and/or conduct; specifically fraudulent enlistment for failure to disclose all of your pre-service drug use, including phencyclidine (PCP). You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. You received a psychological evaluation and were determined to be a drug experimenter with no evidence of psychosis or disabling neurosis.

On 16 July 1982, you received non-judicial punishment (NJP) for two specifications of failure to go to your appointed place of duty. On 8 October 1982, you received NJP for thirty-five hours of unauthorized absence (UA). On 1 November 1982, you received NJP for failure to go to your appointed place of duty. On 25 May 1983, you were issued Page 13 counseling concerning deficiencies in your performance and/or conduct: specifically, UA and missing ship's movement. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 27 May 1983, you received NJP for UA, missing ship's movement through neglect, and wrongful appropriation. You were again issued Page 13 counseling and advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 12 August 1983, you received NJP for two specifications of disobeying a lawful order and one specification of being disrespectful in language toward a superior petty officer. On 24 August 1983, you were found guilty at Summary Court Martial (SCM) of disobeying a lawful order and being disrespectful toward a superior petty officer.

Unfortunately, most of the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Based on the information contained on your Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated on 8 December 1983 with an "Under Other Than Honorable Conditions (OTH)" characterization of service, your narrative reason for separation is "Commission of a Serious Offense," your reentry code is "RE-4," and your separation code is "GKQ;" which corresponds to misconduct – commission of a serious offense (board action).

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 and your contentions that you suffered from post-traumatic stress disorder (PTSD) from your work on the ship's bridge and an unscheduled deployment following the Marine Barracks bombing in Beirut, the insubordination charges while you were in the Brig were a result of a misunderstanding, and you experienced alcohol and drug addiction and homelessness after your discharge before turning your life around, earning degrees, and volunteering in your community. Additionally, the Board noted you checked the "PTSD" and "Other Mental Health" boxes on your application but did not provide any supporting evidence of your claims<sup>1</sup>. For purposes of clemency and equity consideration, the Board considered your statement, the advocacy letters and documentation of post-service accomplishments you provided.

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 and SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your repeated misconduct had on the good order and discipline of your command. The Board noted that you

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<sup>1</sup> The Board considered your response to the 27 August 2024 letter from the Board requesting evidence in support of your claim and noted that it provided no additional information, other than your statement that you received a preliminary mental health evaluation by the Department of Veterans Affairs.

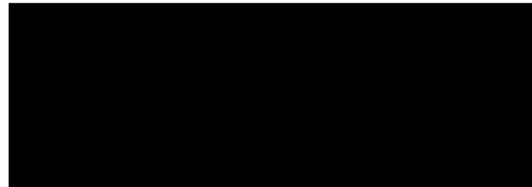
were given multiple opportunities to address your conduct issues, but you continued to commit misconduct; which ultimately led to your discharge for commission of a serious offense. Finally, the Board noted you provided no evidence, other than your personal statement, to substantiate your contentions<sup>2</sup>.

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 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, \_\_\_\_\_

12/13/2024



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<sup>2</sup> The Board noted that the Marine Barracks bombing in Beirut occurred on 23 October 1983, while you were being processed for discharge. This was an additional factor in the Board's finding that you provided insufficient evidence that you suffered from PTSD or another mental health condition at the time of your misconduct.