



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

█  
Docket No. 8786-24  
Ref: Signature Date

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Dear █:

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 2 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 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 U.S. Marine Corps and commenced a period of active duty on 26 September 1967. Although you had several disciplinary infractions during this enlistment resulting in multiple nonjudicial punishments (NJP), you completed this enlistment with an Honorable characterization of service on 30 September 1970.

On 18 July 1972, you reenlisted and commenced a second period of active duty. On 8 April 1974, you received nonjudicial punishment (NJP) for drunk and disorderly conduct. On 20 August 1974, you received a second NJP for failing to be at your appointed place of duty and a period of unauthorized absence (UA) lasting one day. On 26 December 1974, you commenced a period of UA which lasted 770 days and ended in your apprehension. Subsequently, you submitted a request to be discharged for the good of the service (GOS) with an Other Than Honorable (OTH) characterization of service to escape trial by court-martial. Ultimately, your request was approved, and you were so discharged on 9 March 1977.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 and your contentions

that: (1) it has been nearly 50 years and you deeply regret the poor decisions you made in your youth, (2) you only considered submitting a request after falling ill, and (3) this is not something you intend for your family to inherit. Additionally, the Board noted you checked the “Other Mental Health” box on your application but chose not to respond to the 2 October 2024 letter from the Board requesting evidence in support of your claim. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs and GOS request, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard for military authorities and regulations. Additionally, the Board noted you were provided multiple opportunities to correct your deficiencies but continued to commit misconduct; which led to your OTH discharge. Further, the Board was not persuaded by your contention that ample time has elapsed to warrant a change in your discharge since there is no provision of federal law or in Navy or Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. Lastly, Board noted that the misconduct that led to your request to be discharged in lieu of trial by court-martial was substantial and determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial; thereby sparing you the stigma of a court-martial conviction and possible punitive discharge.

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 of service. While the Board carefully considered the evidence you submitted in mitigation, 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 mitigating 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 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 is attached 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,

1/7/2025

