



Docket No. 9124-24
Ref: Signature Date

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 13 January 2025. 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).

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 Marine Corps with a waiver and began a period of active duty on 17 June 1997. Upon your enlistment, you completed both, the Questionnaire for National Security Positions and the Drug Abuse Screening Form. Subsequently, you admitted the use of a controlled substance-marijuana in numerous occasions.

Unfortunately, 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. Your Certificate of Release or Discharge from Active Duty (DD Form 214) reveals that you were separated from the Marine Corps on 28 July 1997 with an uncharacterized entry level separation, your narrative reason for separation is “defective enlistment and induction – fraudulent enlistment – positive urinalysis,” your separation code is “GDA2,” and your reenlistment code is “RE-3F.” Your separation code is consistent with a discharge due to defective enlistment and induction – fraudulent enlistment.

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 from Other Than Honorable (OTH) and contentions that: (a) you intended to serve honorably in the Marine Corps, (b) you were accused of being disingenuous when you enlisted as you provided a positive urine sample, (c) you were a young man at that time and you should have known better, (d) you take full responsibility for your actions and have already paid the debt. Additionally, the Board noted you checked the “Other Mental Health” box on your application but chose not to respond to the Board’s request for supporting evidence of your claim. For purposes of clemency consideration, the Board further noted you did not provide supporting 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 noted you were appropriately assigned an uncharacterized entry level separation based on your time on active duty¹. Applicable regulations authorize an uncharacterized characterization if the processing of an individual's separation begins within 180 days of entry into active service. While there are exception to this policy in cases involving misconduct or extraordinary performance, the Board concluded neither exception applied in your case. Further, the Board noted you were appropriately processed and discharged based on your positive urinalysis.

Therefore, 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

¹ The Board found no evidence that you were assigned an OTH characterization of service.

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,

2/5/2025

[REDACTED]