



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

██████████  
Docket No. 9439-24

Ref: Signature Date

████████████████████  
██████████████████  
██████████████████

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 6 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).

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 U.S. Marine Corps Reserve (USMCR) and began a period of active duty service on 9 May 1977. Your pre-enlistment physical examination, on 20 April 1977, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms.

On your DD Form 1666 (Application for Enlistment – Armed Forces of the United States), you stated that you were born on 13 April 1958 in the ██████████ ██████████ and falsely represented

that you were a U.S. citizen. You also represented that your mother was a [REDACTED] citizen and that your father was a U.S. citizen. However, your [REDACTED] Government Certificate of Live Birth officially indicated that your father was a [REDACTED] citizen and not a U.S. citizen.

While still in initial recruit training, on 21 July 1977, you provided a voluntary statement to the Naval Investigative Service admitting that both of your parents were born in [REDACTED]. You also disclosed that you used your [REDACTED] passport and an American (student) visa to enter the United States on 9 March 1977, and that you stayed with your uncle in [REDACTED]. Further, you admitted the following:

I met a friend...who told me he could get me a false high school diploma for twenty dollars...I gave [R] twenty dollars, and my name, and the next day [R] brought me my diploma...In April, 1977, I enlisted in the United States Marine Corps...using my false high school diploma...

Following your voluntary admission, your command notified you that you were being processed for an administrative discharge by reason of defective enlistment and induction due to fraudulent entry into the Marine Corps as evidenced by your deliberate concealment of being an illegal alien. You waived your rights to consult with counsel and to submit a written statement for consideration.

On 15 August 1977, the Staff Judge Advocate to the Separation Authority determined that your separation proceedings were legally and factually sufficient for processing your case as a fraudulent enlistment on the basis of failure to meet citizenship requirements as claimed. Ultimately, on 18 August 1977, you were discharged from the Marine Corps for a fraudulent entry with a General (Under Honorable Conditions) ("GEN") discharge characterization and were assigned an RE-4 reentry code.

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 discharged due to your immigration status, and (b) you were born in the [REDACTED] [REDACTED] which is American soil. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. The Board determined that your Navy service records and DD Form 214 maintained by the Department of the Navy contained no known errors. Based on your precise factual situation and circumstances at the time of your discharge, the Board concluded that your command was justified separating you for a fraudulent enlistment.

The Board noted that a fraudulent enlistment occurs when there has been deliberate material misrepresentation, including the omission or concealment of facts which, if known at the time, would have reasonably been expected to preclude, postpone, or otherwise affect a Marine's



eligibility for enlistment. The Board determined that you had a legal, moral, and ethical obligation to remain truthful on your enlistment paperwork. The Board determined the record clearly reflected that your: (a) deliberate concealment of certain material facts regarding your [REDACTED] citizenship and alien status, and (b) the use of fraudulent documentation to enlist was willful and intentional and demonstrated you were unfit for further USMCR service. The Board concluded you failed to adhere and meet basic Marine Corps core values and displayed a lack of integrity. The Board also concluded that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should otherwise not be held accountable for your actions.

Moreover, the Board noted that at the time of your birth in 1958, children born in the Canal Zone to a U.S. citizen acquired U.S. citizenship unconditionally. However, the Board also noted that in your specific case, persons born in the Canal Zone of alien parents did not acquire U.S. citizenship or nationality at birth.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your pre-service intentional concealment of certain material facts clearly merited your GEN discharge and no higher. 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 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,

12/30/2024

[REDACTED]