



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

Docket No. 9892-24
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 21 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, 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 Marine Corps Reserve after signing a statement of understanding requiring you to attend forty-eight scheduled drills and no less than fourteen days of active duty for training (ADT) per year. You completed an initial active duty for training (IADT) between 24 September 1990 and 5 June 1991. Upon your release from IADT, you were assigned to your Reserve unit.

On 31 October 1991, you were notified via certified mail of your command's intent to administratively reduce you in rank due to unsatisfactory participation in drills. On 8 November 1991, you were issued an administrative remarks (Page 11) counseling concerning deficiencies

in your performance and/or conduct, specifically failure to attend required drills without reasonable justification. 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 6 December 1991, you were reduced in rank from Private First Class/E-2 to Private/E-1. On 7 December 1991, you were again issued Page 11 counseling for unsatisfactory participation and advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 2 February 1992, you were notified via certified mail of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of unsatisfactory participation due to your failure to attend sixteen scheduled drills. You signed for the letter of notification but failed to respond; waiving your rights to submit a statement or have your case heard by an administrative discharge board. The separation authority directed your discharge with an OTH characterization of service, and you were so discharged on 13 July 1992.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 27 April 1995, based on their determination that your discharge was proper as issued.

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 missed your scheduled drills to care for your sick mother and your siblings, your command did not assist you, and you desire Department of Veterans Affairs (VA) benefits. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

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 sixteen unauthorized absences from scheduled drills, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your conduct had on the good order and discipline of your command. The Board noted that you were given multiple opportunities to address your conduct issues, but you continued to commit misconduct; which ultimately led to your OTH discharge. The Board also noted you provided no evidence, other than your personal statement, to substantiate your contentions. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. 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 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,

2/14/2025

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Executive Director

Signed by: ■