



Docket No. 10031-24  
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 31 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).

You enlisted in the Marine Corps and commenced active duty on 30 July 1981. On 11 March 1982, you received non-judicial punishment (NJP) for two specifications of unauthorized absence (UA) for failure to go to your place of duty at time prescribed. On 14 May 1982, you commenced a period of UA that ended in your surrender on 13 June 1982. On 16 June 1982, you commenced a period of UA that ended in your surrender on 18 June 1982. On 28 June 1982, you commenced a period of UA that ended in your surrender on 27 July 1982. On 28 July 1982, you received NJP for disobeying an order from a commissioned officer, three specifications of UA for failure to go to place of duty, and three specifications of UA, for thirty days, two days, and twenty-nine days, respectively. On 31 August 1982, you commenced a period of UA that ended in your surrender on 20 September 1982. On 12 November 1982, you were found guilty at summary court martial (SCM) for twenty-one days of UA and missing ship's movement. On 7 January 1983, you received NJP for UA for leaving your fire watch post. On 14 January 1983, you received NJP for loss of military gear issue.

Unfortunately, some 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 13 May 1983 with an "Under Other Than Honorable Conditions (OTH)" characterization of service, your narrative reason for separation is "Misconduct due to Pattern of Misconduct (admin discharge board required but waived)," your reentry code is "RE-4," and your separation code is "HKA1;" which corresponds to misconduct due to pattern of misconduct, admin discharge board required but waived.

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 time has passed, you are need of Department of Veterans Affairs (VA) benefits, and you were told you would get compensation for hearing loss six months post-discharge. For purposes of clemency and equity consideration, the Board considered your statement and the correspondence 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 found that your conduct showed a complete disregard for military authority and regulations. The Board noted that you were given multiple opportunities to address your conduct issues, but you continued to commit misconduct; which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. 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. 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, \_\_\_\_\_

2/26/2025

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Executive Director

Signed by: █