



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

██████████
Docket No. 10053-24
Ref: Signature Date

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██████████
██████████

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 15 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 entered active duty with the Marine Corps on 9 February 1984. On 23 January 1985, a summary court-martial (SCM) convicted you of unauthorized absence (UA) totaling 20 days. On 13 March 1985, you commenced a period of UA that ended with your apprehension on 8 July 1985. Upon your return, you submitted a written request for discharge for the good of the service (GOS) to avoid trial by court-martial for the aforementioned misconduct. Prior to submitting this request, you conferred with a qualified military lawyer, at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. In the meantime, on 14 August 1985, you were diagnosed with a mixed personality disorder that existed prior to enlistment. Your request was accepted and your commanding officer (CO) was directed

to issue an Other Than Honorable (OTH) discharge for the GOS. On 6 September 1985, you were so discharged.

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 upgrade your discharge or change your reason for discharge to “medical.” You contend that you were assaulted by your Drill Sergeant, your Senior Drill Sergeant forced you to lie, and you became sick due to drinking contaminated water at Camp Lejeune. You further contend that you went to college, got married, had children, built a business, work for non-profit in disaster areas, and performed humanitarian work in ██████████. The Board noted you checked the “PTSD” and “Other Mental Health” boxes on your application but did not respond to the Board’s request for supporting evidence. For purposes of clemency and equity consideration, the Board further noted that you did not provide 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 determined that your misconduct, as evidenced by your SCM and request for GOS discharge, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found your conduct showed a complete disregard for military authority and regulations. The Board observed that you provided no evidence, other than your statement, to substantiate your contentions. In reviewing your record, the Board considered that your statement to medical providers regarding your reasons for going UA differs significantly from your current contentions. Specifically, you stated, “I admit that I was away without authority, but I did attempt to inform my unit of my whereabouts. This was my second UA and I feel both were justified. I am obligated to care for my mother and younger brother but my allotment for their financial care kept getting fouled up my mother could not meet her financial needs so I left both times to help out. Unfortunately, her condition is worse now that I am incarcerated. She must meet the payments on my vehicle in addition to her usual bills and my savings have been used up. I just need to get my-problems over with and go home to care for my folks.” Based on these statements, the Board was not persuaded by your current explanation of why your misconduct should be mitigated. Finally, the Board also 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.

Regarding your request for a “medical” discharge, the Board determined insufficient evidence exists to support your request. First, the 14 August 1985 medical examination found no evidence of a mental health condition; other than your diagnosed personality disorder. Nor did the examination document any disability condition warranting a referral to a medical board. Second, and more important, you did not qualify for disability processing based on your misconduct that resulted in an OTH.

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 service¹. While the Board carefully considered the statement 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 mitigated 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.

Finally, regarding your claim that you suffer from the effects of contaminated water at Camp Lejeune. The Board also noted that Public Law 112-154, "Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012," requires the Department of Veterans Affairs to provide health care to veterans with one or more of 15 specified illnesses or conditions. You should contact the nearest office of the Department of Veterans Affairs concerning your right to apply for benefits or appeal an earlier unfavorable determination.

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,

2/6/2025



¹ Based on this finding, the Board also concluded that you were properly separated in accordance with your voluntary request to be discharged for the GOS and your narrative reason for separation remains appropriate.