



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

██████████  
Docket No. 10233-24  
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 25 November 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).

You enlisted in the Marine Corps and commenced active duty on 26 February 1996. On 20 August 1996, you received non-judicial punishment (NJP) for unauthorized absence (UA) due to failure to go to your appointed place of duty and underage drinking. You were additionally issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct related to your underage drinking. 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 3 October 1996, you received a second NJP for UA, disrespectful behavior toward a Staff Sergeant, breaking restriction, and physically assaulting a female Marine by striking her in the face. You were also issued a Page 11 counseling for this conduct and again advised that any further such conduct may result in disciplinary action or processing for administrative separation. On 24 October 1996, you received a third NJP for UA and you were again counseled for your conduct. Lastly, on 2 December 1996, you received a fourth NJP for assault after unlawfully striking another Marine in the jaw with your fist.

Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to a pattern of misconduct. You waived consulted with counsel and elected to submit a statement in lieu of request an administrative discharge board. You submitted your statement on 10 January 1997 and, after review, your Commanding Officer (CO) recommended your discharge with an OTH characterization stating, your “attitude cannot be tolerated in the Marine Corps.” The Separation Authority approved the recommendation and you were so discharged on 13 February 1997.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 29 November 2007, 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 have greatly changed since service and hope for a better discharge. For purposes of clemency and equity consideration, the Board considered the three advocacy letters you provided as part of your application.

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, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and that it involved, among other offenses, two physical assaults on fellow Marines. The Board also considered the likely negative impact your repeated misconduct had on the good order and discipline of your command. Finally, the Board noted that you were given opportunities to address your conduct issues but you continued to commit misconduct; which ultimately led to your undesirable discharge.

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. Although the Board recognizes you have changed since your time in service and commends you for those changes, 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,

1/6/2025

