



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

██████████
Docket No. 10312-24
Ref: Signature Date

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Dear ██████████

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 you did not file your application in a timely manner, the Board waived the statute of limitation in the interest of justice. A three-member panel of the Board, sitting in executive session, considered your application on 2 May 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 to 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 began a period of active duty on 11 January 1977. After completing just over six months of service, you absented yourself without authority initially for a day and, after returning, for an additional period of 29 days, returning prior to being declared a deserter. As a result of your unauthorized absences (UAs), you received nonjudicial punishment (NJP) for two specifications of violation of Article 86 of the Uniform Code of Military Justice (UCMJ) on 29 July 1977. You broke restriction and absented yourself again, from 3 August 1977 through 2 September 1977, resulting in a second NJP for your UA and breaking restriction offenses. While still in a restricted status, you again absented yourself on 19 September 1977 and remained absent until 24 January 1978. Upon your return, you requested separation for the good of the service in lieu of trial by court-martial (SILT); however, your request was denied on 3 March 1978. You again absented yourself without authority, from 15 March 1978 until 13 November 1978, and were denied another SILT request. You also received a psychiatric evaluation and were diagnosed with a personality disorder.

On 4 January 1979, you were tried and convicted by Special Court-Martial (SPCM) for two specifications of violation of Article 86 due to your two prolonged periods of UA and sentenced

to a Bad Conduct Discharge (BCD). After you expressed your desire not to be restored to active duty, the findings and sentence of your SPCM proceedings were affirmed upon legal review. You were punitively discharged on 10 September 1979.

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 Memos. These included, but were not limited to, your desire to upgrade your discharge and your contention that you received a punitive discharge, rather than confinement and an administrative discharge, due to speaking your mind at trial after having been advised to do so by your defense counsel. You also assert that your Colonel told you he could keep you out of the brig but could not do anything about your discharge. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your petition without any other additional documentation.

After thorough review, the Board concluded the potentially mitigating factors you submitted for consideration were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and SPCM conviction, 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 observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct, which led to your BCD. 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, the Board noted you provided no evidence, other than your statement, to substantiate your contentions.

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 the 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 is attached 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,

5/27/2025
