



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

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Docket No. 10638-24  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 21 February 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to the understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on evidence of record.

You enlisted in the Marine Corps and began a period of active duty on 27 July 1979. On 17 April 1980, you were counseled after being suspected of possessing a marijuana cigarette at a softball game on the military base. As a result, you were not recommended for promotion to the paygrade of E-3 during that month. You continued to not be recommended for promotion in the ensuing months due to various deficiencies in performance or conduct. Then, on 24 November 1980, you were issued two administrative counseling advisories: one cautioned you against associating with known drug users and against being in establishments where drugs were being used, and the other directed you to correct deficiencies in your conduct after violating both Marine Corps and company orders by possessing alcoholic beverages in your enlisted quarters. On 30 April 1981, you were advised that you were not recommended for promotion to the paygrade of E-4 with similar counseling entries continuing from that time through March 1982.

During that period, in October 1981, you were administratively counseled for violating a company order by consuming food while posted as sentry and for failing to shave prior to assuming guard duty.

On 26 July 1982, you were issued the Good Conduct medal after having completed the requisite period of active duty service without formal disciplinary action. Shortly thereafter, however, you were again issued administrative counseling advising you to correct deficiencies with respect to your poor judgment while in a supervisory position, during which you had permitted the unauthorized use of government vehicles. Then, during your final four months of service, you were subject to nonjudicial punishment (NJP) twice. First, on 6 April 1983, you received NJP for violations of Articles 86 and 92 of the Uniform Code of Military Justice (UCMJ), respectively, for failure to go at the time prescribed to your appointed place of duty, specifically to a dental appointment, and for failure to obey an order not to wear your summer service "C" uniform while performing duties as a gate sentry. Shortly thereafter, on 24 May 1983, you received a second NJP for violation of Article 78 of the UCMJ and three specifications under Article 92. Specifically, knowing that a corporal had committed an offense of larceny of government ammunition, you hindered the apprehension of said individual by meeting with him in the presence of two other Marines to whom he distributed the stolen ammunition; thereby permitting them to dispose of it though unauthorized firing. Additionally, you failed to obey lawful orders by using a government vehicle for an unauthorized use and by wrongfully issuing weapons to personnel who were in a non-reactionary force status, during non-emergency conditions. Likewise, you violated U.S. Navy Regulations by wrongfully failing to report the theft of the ammunition. Following your second NJP, and prior to your expiration of obligated active service, you were advised that you were not recommended for reenlistment and would be assigned an "RE-4" reentry code due to your frequent involvement of a discreditable nature with military authorities. You were discharged under honorable conditions, on 25 July 1983, incident to the expiration of your enlistment.

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 and your contentions that you were involved in an on-base accident during your active duty which resulted in a traumatic brain injury (TBI) and/or post-traumatic stress disorder (PTSD). You also state, without further clarification, that it is a well-known fact that the legal system uses military service against you during any proceedings. Additionally, the Board noted that you checked the "PTSD" and "TBI" boxes on your application but chose not to respond to the Board's request for supporting evidence of your claims. For purposes of clemency and equity consideration, the Board noted 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 NJPs, 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 General (Under Honorable Conditions) 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. Although you completed your contractual period of obligated active service, the Board observed that you were not recommended for reenlistment due to the repetitive nature of your performance and conduct deficiencies; which resulted in routine counseling through the majority of your service. The Board found that your receipt of the Good Conduct medal resulted primarily from the decision of your chain of command to rely heavily upon such counseling for corrective action rather than to pursue disciplinary action; which would certainly have been justified on more than one occasion prior to your first NJP. Additionally, the Board found that you elected to either become involved in or, at the very least, to assist in preventing the discovery of, an incident involving the unlawful theft and firing of government ammunition. Given the seriousness of the offenses identified in your final NJP, the Board found no evidence of error or injustice in your being afforded the opportunity to continue serving the remaining period prior to your expiration of service. To the extent that your official military personnel file (OMPF) does not contain documentation of your proficiency and conduct marks, the Board applied a presumption of regularity, especially in light of your two NJPs in the four months prior to your discharge, and therefore found that your discharge under honorable conditions presumptively was assigned as type warranted by serviced record, consistent with your disciplinary history.

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,

3/21/2025

