



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. 11160-24
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 27 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 this 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 enlisted in the Marine Corps (USMCR) and began active duty on 6 November 1990. After completing your initial training pipeline, you were released from active duty on 27 April 1991 and transferred to your Reserve unit. On 7 July 1992, you received notification of separation proceedings by reason of unsatisfactory participation in the Selected Marine Corps Reserve due to excessive unexcused absences. You were also informed of your proposed administrative reduction to E-2 for unsatisfactory participation in reserve training. You were sent documents pertaining to your administrative separation via certified mail but you failed to respond to the notification; which resulted in the waiver of your associated rights. On 2 August 1992, you were reduced to PFC for unsatisfactory participation in the USMCR. On 9 September 1992, your commanding general directed your Other Than Honorable (OTH) discharge from the USMCR by reason of failure to participate. On 22 September 1992, 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 character of service and contentions that: (1) you were an 18 year old and had no idea how far it was to ■ for your drill, (2) you lived 3.5 hours away, (3) you were only making \$10 an hour and you only had one car for your household, (4) your father had kidney failure and had to have dialysis twice a week, (5) the motor on car went bad and you had to borrow your fathers-in-law car, (6) you were told not to return if you didn't want to be there, (7) the OTH is biggest regret and you wish you could have financially afforded to complete your duty, and (8) you do not care about benefits, would just like to have an Honorable discharge. For purposes of clemency and equity consideration, the Board noted that you did not provide documentation describing post-service accomplishments or advocacy letters.

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 unexcused baseness from required drills, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved an apathetic attitude toward completing your obligated service. The Board also considered the likely negative effect your misconduct had on the good order and discipline of your command. Furthermore, the Board noted that you provided no evidence, other than your statement, to substantiate your contentions. Thus, the Board found that your misconduct was intentional and made you unsuitable for continued military service.

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. 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 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,

12/29/2024

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Executive Director

Signed by: ■