



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

■
Docket No. 11190-24
Ref: Signature Date

■■■■■■■■■■
■■■■■■■■■■■■■■■■■■■■
■■■■■■■■■■

Dear ■■■■■■■■■■

This is in reference to your application for correction of your husband's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of his 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 26 March 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.

Your husband, hereinafter referred to as Petitioner, enlisted in the Marine Corps and began a period of 20 August 1974. On 24 March 1976, Petitioner received an administrative remarks (Page 11) counseling concerning his lackadaisical and apathetic attitude towards regulations and appearance standards of the Marine Corps. On 31 March 1976, Petitioner received non-judicial punishment (NJP) for disobeying a lawful order of a general regulation by not being in the proper uniform and provoking an incident that resulted in his assault upon another Marine by hitting him in the mouth. On 9 August 1976, Petitioner received his second NJP for absence from his appointed place of duty. On 10 August 1976, Petitioner received a Page 11 counseling concerning apathetic attitude and his lack of performance within his military occupational

specialty (MOS) duties. On 21 September 1976, Petitioner's commanding officer (CO) informed Petitioner that he was initiating Petitioner's recommendation for administrative discharge from the Marine Corps and that he was recommending that Petitioner be issued a General (Under Honorable Conditions) (GEN) character of service discharge. As part of the CO's reason for initiating administrative separation proceedings, CO stated to Petitioner in pertinent part:

Since joining the organization.....your performance of duty has deteriorated below the standards expected of a Marine. Your service record indicates that you have been the subject of counseling sessions concerning your deficient attitude, appearance and performance of duty. Your service record also indicates that you have been the subject of two NJPs since joining this unit. You have indicated that you can no longer be productive in the USMC and that further active duty will only result in further disciplinary action

On 21 September 1976, Petitioner was notified that he was being recommended for administrative discharge from the Marine Corps in compliance with the Expeditious Discharge Program. Unfortunately, some documents pertinent to Petitioner's administrative separation are not in his official military personnel file. Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Based on the information contained on Petitioner's Report of Separation from Active Duty (DD Form 214), Petitioner was separated from the Marine Corps, on 20 October 1976, with an "Under Honorable Conditions (General)" characterization of service, reenlistment code of "RE-3C," and separation code of "JFG8;" which corresponds to Marine Corps Expeditious Discharge Program – involuntary.

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 Petitioner's discharge character of service and contentions that Petitioner developed post-traumatic stress disorder (PTSD) while in service, he suffered from general anxiety and/or depression during his time in service, he frequently dealt with racism, harassment, prejudice, violent acts of racism, and retaliation for self-defense, and he was a whistleblower on multiple events that occurred on base. Additionally, the Board noted you checked the "PTSD" and "Other Mental Health" 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 considered the documentation you provided in support of your application.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that Petitioner's misconduct, as evidenced by his multiple administrative counselings and NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of Petitioner's misconduct and concluded it showed a complete disregard for military authority and regulations. The Board observed that Petitioner was given multiple opportunities to correct his conduct deficiencies but chose to continue to commit misconduct; which led to his GEN discharge. His conduct not only

showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of his command.

Further, as described by his commanding officer's comments, the Board found that Petitioner's misconduct was intentional and made him unsuitable for continued naval service. Finally, despite your contentions of unfair treatment, the Board determined that the evidence of record did not demonstrate that Petitioner was not responsible for his conduct or that he should otherwise not be held accountable for his actions. In the end, the Board concluded that Petitioner was fortunate to receive a GEN characterization of service based on his record of misconduct and relatively brief period of active duty.

As a result, the Board determined that there was no impropriety or inequity in your husband's discharge and concluded that his misconduct and disregard for good order and discipline clearly merited his discharge. While the Board carefully considered the evidence 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 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 Petitioner's misconduct. Accordingly, given the totality of the circumstances, the Board determined your request does not merit relief.

Despite its finding that relief was not warranted in your case, this Board expressed its deepest sympathy for your loss.

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,

4/9/2025

