



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

██████████
Docket No. 11521-24
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 31 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 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 with a waiver for pre-service marijuana use and a history of alcohol-related offenses and began a period of active duty on 21 May 1979. Between 10 April 1980 and 23 May 1980, you were hospitalized following blackouts due to habitual excessive drinking. Although you were diagnosed as having alcoholism, with a medical note that you did not demonstrate a willingness to overcome your problems, you continued serving for nearly two years without further documented incident.

From 8 January 1982 through 18 March 1982, you were subject to nonjudicial punishment (NJP) on three occasions for violations of the Uniform Code of Military Justice (UCMJ). Your offenses included two specifications of violations under Article 91, for behaving disrespectfully toward a corporal/E-4 by swearing and toward a sergeant/E-5 by swearing, Article 134, for communicating a threat toward the sergeant, Article 86, for being absent from your appointed place of duty, and Article 134, for breaking restriction; which had been imposed due to your previous offenses. On 16 July 1982, you absented yourself without authority and remained absent until you voluntarily returned to military authority on 24 August 1982. On 14 September

1982, you received a fourth NJP for the violation of Article 86 of the UCMJ. On 3 February 1983, you were administratively counseled regarding your lack of maturity and self-discipline and your disregard for military authority. You were warned that further misconduct could result in involuntary early discharge or other adverse consequences. Despite this warning, you incurred two additional NJPs, on 23 February 1983 and 9 May 1983, for 10 specifications under Article 86 of the UCMJ due to habitual tardiness and for violation of Article 134 by wrongfully possessing a plastic bag with trace amounts of marijuana. You completed your enlistment contract and were discharged under honorable conditions (GEN) on 30 June 1983.

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 to a fully Honorable characterization and your contentions that your post-service character and accomplishments warrant consideration of an upgraded discharge on the basis of clemency factors, you were punished for your misconduct while in service and believe that the Marine Corps changed you for the better, and you have dedicated your life toward helping your Tribal peoples; to include helping preserve the monument of the ██████████. In support of your application and for the purpose of clemency and equity consideration, you submitted a biography of your service as the ██████████

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 GEN 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. The Board observed that, notwithstanding six NJP actions, you were permitted to continue serving through the completion of your contract and you received a characterization of discharge consistent with the type warranted by your service record. Although your service record does not document any your proficiency and conduct marks following your first through sixth NJPs, the Board applied a presumption of regularity that your conduct mark would have been sufficiently lowered, consistent with the guidance in Marine Corps regulations, to have resulted in a conduct mark average below the 4.0; a threshold required to receive an Honorable discharge. In the end, the Board concluded that you were already afforded substantial consideration of clemency and application of mitigating factors in having been permitted to complete your enlistment with a discharge under honorable conditions as opposed to having been processed for administrative separation due to your pattern of misconduct and your serious offenses.

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. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge efforts to help your community, even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and 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 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,

4/16/2025

