



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

Docket No. 11762-24
Ref: Signature Date

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.

Because your application was submitted with new contentions not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel, sitting in executive session on 14 April 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.

You enlisted in the Marine Corps and commenced active duty on 11 October 1989.

On 23 October 1991, you received non-judicial punishment (NJP) for unauthorized absence (UA) and operating a vehicle while intoxicated. On 9 March 1993, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 19 April 1993, you commenced a period of UA that ended on 30 Apr 1993. On 5 May 1993, you received NJP for the eleven days of UA and two specifications of disobeying a lawful order. On 21 June

1993, you were issued Page 11 counseling concerning a pattern of misconduct and were again advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 30 June 1993, you received NJP for disobeying a lawful order and breaking restriction. On 22 July 1993, you were issued Page 11 counseling concerning your alcohol abuse. You were offered, and declined, the opportunity to attend alcohol treatment through the Department of Veterans Affairs (VA). On 26 July 1993, you commenced a period of UA that ended on 30 July 1993. On 4 August 1993, you received NJP for your five days of UA.

Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to pattern of misconduct. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board. On 16 September 1993, you commenced a final period of UA; during which the separation authority approved and directed your discharge with an OTH characterization of service. You returned from UA, on 13 October 1993, and you were discharged on 29 October 1993.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 28 May 1996, based on their determination that your discharge was proper as issued.

You previously applied to this Board for an upgrade to your characterization of service where you contend that you were told a substance abuse program was not available. The Board denied your request on 10 July 2002. In 2004 and 2008, you applied for reconsideration to this Board but both cases were administratively closed due to lack of new material information.

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 change your discharge characterization of service and your contentions that you suffer from post-traumatic stress disorder, generalized anxiety disorder, and alcoholism. You also contend that, after your discharge from the Marine Corps, you served honorably in the Army National Guard where you were recommended for Officer Candidate School and Warrant Officer School. You also checked the "PTSD" and "Mental Health" boxes on your application but chose not to respond to the 3 December 2024 letter from the Board requesting evidence in support of your claim. For purposes of clemency and equity consideration, the Board considered your statement, the Army National Guard Record of Separation, and the letters of recommendation 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 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 OTH 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 considered your Army National Guard service, which included the two letters of recommendation, but noted that your Record of Separation annotates you later received a General (Under Honorable Conditions) discharge due to Fraudulent Enlistment. This indicated to the Board that you continued to commit misconduct even after your discharge from the Marine Corps. Finally, the Board noted you provided no evidence, other than your personal statement, to substantiate your contention that mental health diagnoses mitigate your misconduct. Therefore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions.

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, 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. 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 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,

5/1/2025

