



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

██████████
Docket No. 12030-24
Ref: Signature Date

████████████████████
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Dear ██████████

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.

A three-member panel of the Board, sitting in executive session, considered your application on 13 February 2025. The names and votes of the members of the panel 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).

A review of your record shows you enlisted in the Marine Corps and commenced active duty on 30 November 2020. The following facts were further derived from your official military personnel file:

While on annual leave in August 2022, you violated the Marine Corps' tattoo policy by tattooing your head and hands. Additionally, a urinalysis on 7 September 2022 yielded a positive result for tetrahydrocannabinol (THC8).

As a result of the positive urinalysis, Commanding Officer (CO) ██████████
██████████ notified you of administrative separation processing by reason of misconduct due to commission of a serious offense. You acknowledged receipt but only elected to receive copies of the documents that would be forwarded to the Commanding General (CG).

On 5 October 2022, the CO imposed nonjudicial punishment (NJP), finding you guilty of failure to obey orders/regulations by tattooing your head and hands and testing positive for THC8. You

were awarded forfeiture of pay, reduction in rank to E-2, and 45 days restriction and extra duty. You elected not to appeal the NJP.

Additionally, on 6 October 2022, you received an Administrative Remarks (Page 11) counseling entry concerning your battalion-level NJP and a Page 11 entry acknowledging you were eligible but not recommended for promotion to lance corporal due to being processed for administrative separation.

By memorandum of 13 October 2022, CO, [REDACTED], recommended your separation from the Marine Corps with an Other Than Honorable (OTH) characterization of service by reason of misconduct. In his recommendation, the CO noted you had been medically evaluated by a medical provider authorized to perform separation health assessments and, after his review of your Separation History and Physical Examination, the CO determined “that no medical condition had an effect on the performance or conduct resulting in the basis for separation.”

By memorandum of 17 October 2022, Staff Judge Advocate (SJA), [REDACTED], reviewed the proceedings and, finding them sufficient in law and fact, recommended your separation with an OTH characterization.

On 17 October 2022, CG, [REDACTED], approved the recommendations and directed your discharge with an OTH characterization and assignment of a RE-4 (not recommended for reenlistment) reentry code. On 25 October 2022, you were so discharged.

After reviewing your application for discharge review, on 31 October 2023, the Naval Discharge Review Board determined your discharge was proper as issued and warranted no change.

In your petition, you have requested a “full honorable discharge and full benefits to finally get proper disability.” You explain that you were “supposed to be medically discharged” but you “got burned by [your] Battalion” so you “fought back and got attention on them and now don’t have the promised benefits.” Additionally, you impliedly request your characterization of service be upgraded to Honorable, by stating you “[were] told [you] would get [g]eneral with ability to upgrade in a year.” In your statement, you explain your medical problems and the lack of improvement with “all the treatment so they wanted to put [you] on a med board and medically separate [you].” You further contend you had difficulties with the senior enlisted so you took leave “then came back ready to fight everyone.” You contend a medical board was being considered but ultimately state your roommate was “going that route and was stuck E3 for a year or more just sitting there and that didn’t seem fun to [you] especially in the place with the highest suicides in all of the military.” In support of your application and for clemency and equity consideration, you provided a personal statement and character statements from your fiancée, mother, grandmother, and friends.

The Board carefully reviewed your petition and the material you provided in support of your petition and disagreed with your rationale for relief. In reaching its decision, the Board observed that, in order to qualify for military disability benefits through the Disability Evaluation System (DES) with a finding of unfitness, a service member must be unable to perform the duties of his/her office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if his/her disability represents a decided medical risk

to the health or the member or to the welfare or safety of other members; the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting.

In reviewing your record, the Board concluded the preponderance of the evidence does not support a finding you met the criteria for unfitness as defined within the DES at the time of your discharge. In particular, the Board observed you failed to provide evidence you had any unfitting condition within the meaning of the DES. Applying a presumption of regularity, the Board determined that if you actually had a medical condition, including a mental health condition, under circumstances that warranted your referral to a medical board, you would have been so referred.

Additionally, the Board determined your assigned characterization of service remains appropriate. 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 for a discharge upgrade and your previously discussed contentions. 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 NJP, 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. Further, the Board again noted you have provided insufficient evidence to overcome the presumption of regularity that has attached to the CO and SJA recommendations and the CG's decision to characterize your service as under OTH conditions.

Therefore, while the Board carefully considered the evidence you provided 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. 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,

3/5/2025

