



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

[REDACTED]
Docket No. 12288-24
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

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 14 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to the understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on evidence of record.

You enlisted in the Marine Corps and began a period of active duty on 27 June 1980. You served as a Marine Security Guard (MSG). On 8 September 1981, you received nonjudicial punishment (NJP) for a violation of Article 134 of the Uniform Code of Military Justice (UCMJ) after sitting down on your post while posted as a sentinel. However, you continued serving on [REDACTED] duty and, in December 1981, were transferred to [REDACTED] Company, [REDACTED], [REDACTED]. Between 1 February 1982 and 2 March 1982, you received three NJPs for multiple offenses of the UCMJ. These offenses included four specifications under Article 86, for absence from morning color detail and for three additional absences from your appointed place of duty and, Article 91, for willfully disobeying a lawful order from your staff sergeant to secure from liberty at a specified time. During this period, you were also issued administrative counseling

documenting that you had been identified as a drug user through a urinalysis test on 18 January 1982.

A medical evaluation documents that you admitted to the abuse of multiple drugs and threatened to continue using drugs in hopes that it would identify you as a chronic drug abuser. The medical professional further documented that you had repeatedly made reference to your need to leave the military service. You were diagnosed as a poly-drug, nondependent abuser with a passive aggressive personality disorder. Consequently, you were notified of the recommendation for your administrative discharge by reason of misconduct due to your frequent involvement of a discreditable nature with military authorities and you elected not to consult legal counsel. However, you chose to submit a statement regarding your proposed discharge and stated, in relevant part, that you experienced a “dramatic shock” in your personal life, felt betrayed by the Armed Forces, felt insecure and depressed, and that you intended to continue experimenting with illegal drugs. Your commanding officer forwarded a recommendation for your discharge under Other Than Honorable (OTH) conditions, which was approved by the separation authority. You were so discharged on 14 May 1982.

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 and your contentions that you experienced mental health problems prior to your enlistment and are being treated for bipolar disorder and post-traumatic stress disorder. However, the Board noted that you 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 totality of your application; which consisted solely of your petition without any other additional documentation.

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 the fact it included multiple drug offenses. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. Further, the Board 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. Finally, the Board noted you submitted no evidence, other than your statement, to substantiate your contentions. 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. 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 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,

4/8/2025

