



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

██████████
Docket No. 159-25
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 24 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 after receiving a moral waiver and began a period of active duty on 3 May 1984. On 26 April 1985, you accepted nonjudicial punishment (NJP) for a violation of Article 111 of the Uniform Code of Military Justice (UCMJ) after operating a vehicle in a reckless manner by failing to apply the brakes and causing the vehicle to strike another. That same day, you were issued administrative counseling regarding safe driving procedures. On 15 October 1985, you received a second NJP for violation of Article 92 of the UCMJ after failing to obey a squadron order by wrongfully consuming alcohol while assigned to a duty section. On 16 April 1987, you were further counseled and advised you of the potential for administrative separation if you did not correct your "repeated violations of the UCMJ" with specific reference to your previous two NJPs. On 9 June 1987, you commenced a period of unauthorized absence that ended on 16 June 1987. On 24 June 1987, you received a third NJP

due to this UA. On 25 September 1987, you were further counseled for failure to maintain sufficient funds in your checking account to cover checks you had written to creditors.

On 1 October 1987, received your fourth NJP for being absent from your appointed place of duty for a period of 6 hours. In January 1988, you received your fifth NJP for another period of UA totaling 12.5 hours. Following your fifth NJP, you were notified of processing for administrative separation by reason of misconduct due to a pattern of misconduct. You consulted legal counsel and initially requested a hearing before an administrative separation board; however, you subsequently elected to voluntarily waive your right to this hearing. Based on your "established pattern of involvement of a discreditable nature with military authorities," you were recommended for a discharge under Other Than Honorable (OTH) conditions. The separation authority accepted the recommendation and you were so discharged on 13 April 1988.

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 contentions that it has been 36 years since your discharge and you were told that it would be upgraded after six months. For purposes of clemency and equity consideration, the Board considered 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 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 that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years.

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,

4/14/2025

