



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

██████████
Docket No. 295-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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.

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 7 February 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 U.S. Marine Corps and began a period of active duty service on 19 July 2004. Your pre-enlistment physical examination on, 13 November 2003, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms.

On 12 April 2005, your command issued you a "Page 11" retention warning (Page 11) counseling you on your inability to be on time; as well as you being disrespectful to one of the instructors at the Fire Academy. The Page 11 advised you that further violations of the Uniform

Code of Military Justice (UCMJ) violations will result in your being charged and receiving non-judicial punishment (NJP). You did not submit a Page 11 rebuttal statement.

On 20 June 2005, your command issued you a Page 11 for communicating a threat via “instant messenger” with the purpose of inflicting bodily harm. The Page 11 advised you that a failure to take corrective action may result in punitive action.

On 17 October 2006, you received NJP for an unauthorized absence (UA). You did not appeal your NJP. On 23 October 2006, your command issued you a Page 11 documenting your NJP. The Page 11 advised you that a failure to take corrective action and any further UCMJ violations may result in judicial or adverse administrative action; including but not limited to administrative separation. You did not submit a Page 11 rebuttal statement.

On 25 January 2007, your command issued you a Page 11 documenting your failure to properly maintain your body composition standards and being assigned to the Marine Corps Body Composition Program (BCP). The Page 11 advised you that any subsequent failure to meet weight/body fat standards during your career will result in a second BCP assignment, which could further result in adverse administrative action including, but not limited to, administrative separation. You did not submit a Page 11 rebuttal statement.

On 6 March 2007, you received NJP for UA and making a false official statement. You did not appeal your NJP. On 13 March 2007, your command issued you a Page 11 where you acknowledged and understood that you were being processed for an administrative separation. You did not submit a Page 11 rebuttal statement.

On 5 April 2007, your command notified you of administrative separation proceedings by reason of misconduct due to a pattern of misconduct. On 12 April 2007, you waived in writing your rights to consult with counsel, to submit written statements, and to request an administrative separation board.

On 17 May 2007, the Staff Judge Advocate to the Separation Authority (SA) determined that your separation proceedings were legally and factually sufficient. On 18 May 2007, the SA approved and directed your separation for a pattern of misconduct with an under Other Than Honorable conditions (OTH) discharge characterization. Ultimately, on 1 June 2007, you were separated from the Marine Corps for misconduct with an OTH discharge characterization and were assigned an RE-4 reentry code.

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 change to your reentry code. You contend that: (a) post-service you have grown as a man and changed your immature attitude, (b) receiving a discharge upgrade would allow you to be eligible to reenlist in the ██████████ State National Guard, (c) your OTH discharge did not hinder from obtaining a job or advancing in the industries that employed you, and (d) you would like to reenlist for your personal and professional growth. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade or change in your RE-4 reentry code. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Marine. The Board determined that the record clearly reflected your misconduct was intentional and indicated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

The Board determined that there was no impropriety or inequity in your discharge and concluded that your cumulative 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 rehabilitation, 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 by a majority vote 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,

2/27/2025

