



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

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Docket No. 456-25
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 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).

You enlisted in the Marine Corps after being granted a waiver for pre-service marijuana use and began a period of active duty on 14 December 2005. On 25 May 2006, you received nonjudicial punishment (NJP) for violations of the Uniform Code of Military Justice (UCMJ) to include two specifications under Articles 92, for violating a lawful written order by having a cell phone in the building and violating a policy letter by giving alcoholic beverages to Marines who were on restriction, and under Article 107, for making a false official statement when you denied having a cell phone in your possession. In addition to your NJP punishment, you were issued administrative counseling advising you of the potential for administrative separation under adverse circumstances if you failed to correct your conduct deficiencies. On 19 June 2006, you received a second NJP for two additional violations of Article 92 of the UCMJ, to include violating a policy letter by possessing alcohol in the barracks and violating a lawful written order by possessing unauthorized pornographic material in the barracks.

On 11 July 2008, you were administratively counseled for an unauthorized absence from scheduled physical fitness formation and for failure to inform your chain of command about a

scheduled medical appointment. Similar incidents continued and, on 8 October 2008, you were notified of processing for administrative separation by reason of misconduct due to a pattern of misconduct whereupon you elected to exercise your right to request a hearing before an administrative separation board. Your chain of command documented your additional misconduct via administrative counseling on 16 October 2008; to include concerns regarding your lack of integrity in lying about medical appointments, failing to make medical appointments, missing medical appointments, falsifying medical documents, and lying about the information in your Record of Emergency Data. In response to this counseling, you submitted a statement in rebuttal outlining the circumstances of your unauthorized absence; which you believed should have been excused by virtue of having notified your chain of command of the situation. Although your commanding officer recommended that you be discharged under Other Than Honorable (OTH) conditions, you subsequently submitted a voluntary waiver of your administrative separation board hearing on 1 December 2008. The reviewing authority approved the recommendation and you were so discharged on 9 January 2009.

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 were drinking heavily at the time of the misconduct which resulted in your discharge, have completed a twelve-step program in the years since your discharge, have completed your associates degree, and hope to continue improving your quality of life. For purposes of clemency and equity consideration, the Board considered the totality of your application, which consisted solely of what you stated on your DD Form 149 without any additional documentation for the Board's consideration.

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 and counselings, 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 that you were given multiple opportunities to correct your conduct issued 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, as noted above, you provided no evidence, other than your statement, to substantiate your contentions. A detailed personal statement and advocacy letters, whether from employers or other credible sources, may assist the Board in determining whether clemency could be appropriate.

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, _____

3/6/2025

