



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. 0668-25
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, 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 and began a period of active duty on 18 September 1978. Prior to commencing active duty, you admitted preservice charges for traffic violations. On 31 August 1979, you began a period of unauthorized absence (UA) which lasted 186 days and resulted in your apprehension by civil authorities. On 11 June 1980, you were convicted by special court martial (SPCM) for the period of UA. You were sentenced to a period of confinement at hard labor. On 20 July 1981, you began a second period of UA which lasted 118 days and resulted in your apprehension by civil authorities. On 9 November 1981, you were charged by civil authorities with public intoxication. Consequently, you were placed on civil confinement pending the completion of civil charges. On 7 December 1981, you were convicted by SPCM for the period of UA. You were sentenced to reduction in rank and a period of confinement at hard labor. On 22 February 1982, you began a third period of UA that ended with your apprehension by civil authorities on 9 February 1983; a period of 349 days. Consequently, you requested an Other Than Honorable (OTH) discharge characterization of service in lieu of trial

by court martial. The separation authority approved your request, and you were so discharged on 8 March 1983. Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for relief. On 15 May 1985, the NDRB denied your request after concluding your discharge was proper as issued.

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 contentions that: (a) you were going through hardship as a result of your family being without food and utilities, (b) you needed to provide income to help them survive as they were unable to work, (c) you requested assistance through your chain of command but never heard anything back (d) you requested a change of duty station to better assist your family, and (e) your parents would have passed had you not returned home and provided for them. 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 SPCMs, civil conviction, and request to be discharged in lieu of trial by court martial, 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. The Board also noted that the misconduct that led to your request to be discharged in lieu of trial by court-martial was substantial and determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial; thereby sparing you the stigma of a court-martial conviction and possible punitive discharge. Finally, the Board noted you did not submit any evidence, other than your statement, to substantiate your contentions. In the end, the Board was not persuaded by your arguments for mitigation and determined that you were fortunate not to receive a punitive discharge based on your extensive record of misconduct.

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 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,

4/8/2025

