



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

Docket No. 1532-25
Ref: Signature Date

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 10 June 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 Marine Corps and began a period of active duty on 8 May 1985. On 31 July 1985, you received non-judicial punishment (NJP) for unauthorized absence (UA) in violation of Article 86, Uniform Code of Military Justice (UCMJ). On 3 April 1986, you received your second NJP for failure to obey a lawful written order, to wit: wrongful possession of an alcoholic beverage in the Bachelor Enlisted Quarters (BEQ) in violation of Article 92, UCMJ. On 8 April 1986, you were issued an administrative remarks (6105) counseling concerning your frequent involvement with military authorities as evident by your two NJPs. You were provided with recommendations for corrective action and advised that failure to take corrective action may result in administrative separation or judicial proceedings.

On 10 April 1987, you received your third NJP for absence from your appointed place of duty in violation of Article 86, UCMJ and failure to obey a lawful order, to wit: get a haircut and return for section Physical Training in violation of Article 92, UCMJ. On 9 December 1987, you received your fourth NJP for failure to obey a lawful order given by a superior noncommissioned officer to shave your face on two separate occasions in violation of Article 92, UCMJ.

Subsequently, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to pattern of misconduct. You were informed that the least favorable characterization of service you may receive is Under Other Than Honorable (OTH) conditions. You waived your right to consult with counsel and to present your case to an administrative discharge board. The commanding officer (CO) forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Marine Corps. As part of the CO's recommendation, he stated in pertinent part:

It is recommended that [Petitioner] be discharged from the Marine Corps by reason of misconduct due to a pattern of misconduct.....it is my opinion that discharge under other than honorable conditions is warranted. Retention of the [Petitioner] would be adversely affecting the morale, discipline, and military effectiveness of this organization

The separation authority approved the recommendation and you were so discharged on 23 March 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 character of service and change your narrative reason for separation, separation code, and reenlistment code to reflect Secretarial Authority as the basis for your separation. You contend that: (1) your discharge was legally improper because you were not properly advised of your right to counsel or your right to request an administrative separation board before being discharged, (2) the separation authority erred in separating you and assigning you an OTH characterization of service, (3) the allegations outlined in your NJPs are decidedly minor in nature, (4) the offenses alleged in your NJPs, even when taken together, are not grounds to separate a Marine, (5) your separation and accompanying OTH characterization is improper, inequitable, and unjust, (6) the assignment of an OTH was improper and inequitable even if the separation authority had sufficient basis to separate you, and (7) your overall record of service and post-discharge conduct are deserving of favorable relief. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the evidence you provided in support of it.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evident by your administrative counseling and NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct 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 determined the record reflected that your misconduct was intentional, willful, and persistent, and demonstrated you were unfit for further service. Furthermore, the Board also determined that the evidence of record did not demonstrate that you were not responsible for your conduct or that you should otherwise not be held accountable for your actions.

Finally, contrary to your contentions, the Board found your record of misconduct was sufficient to support your administrative separation, assigned characterization of service, separation code, and reenlistment code. The Board observed that you provided no evidence, other than your statement, to substantiate your contention regarding your administrative separation process. Contrary to your assertion regarding the denial of due process, the Board noted you were advised of your rights, afforded the opportunity to consult with legal counsel, and voluntarily waived your right to an ADB; thereby forfeiting your best opportunity to receive a better characterization of service. Thus, the Board concurred with your commanding officer's comments regarding the negative influence you had on your unit and determined that the cumulative effect and nature of your misconduct was sufficient to support your OTH discharge for pattern of misconduct discharge.

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. While the Board carefully considered the evidence you submitted in mitigation, 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 determined 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,

6/27/2025

