



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. 1535-25
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 3 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 U.S. Marine Corps Reserve and began a period of active duty on 18 July 1979. On 20 November 1979, you received non-judicial punishment (NJP) for three days unauthorized absence (UA). You received your second NJP on 17 December 1979, for leaving your appointed place of duty without authority. On 13 January 1980, you were released from active duty at the completion of your initial duty for training and assigned to your Reserve unit.

On 28 August 1980, a letter was sent via certified mail advising you to meet with the commanding officer (CO) concerning your UA status from the August 1980 drill. On 22 August

1982, a letter was sent via certified mail advising you to report to the CO concerning your UA status from the August 1982 drill. In June 1984 and October 1984, you were eligible but not recommended for promotion to sergeant because of lack of leadership to handle troops. On 6 January 1985, a letter was sent via certified mail for your absence for the January 1985 drill and that you were being administratively reduced in paygrade for missing drills. On 5 February 1985, a letter was sent via certified mail of advising you of missing drills. On 3 March 1985, you were eligible but not recommended for promotion to sergeant because of unsatisfactory participation of regular schedule drill. On 5 March 1985, you were notified via certified mail that you have missed five drills and that you were being administratively reduced in paygrade for missing drills.

On 13 March 1985, your CO began the process of your administrative separation that included sending you the notice of administrative processing, via certified mail return receipt, to your last known address. In the notification, the specific basis for the recommendation was your unsatisfactory participation in the ready reserve. After you failed to respond, the CO forwarded the documents to the Separation Authority (SA). The Staff Judge Advocate reviewed the CO's recommendation and found that the proceedings were sufficient in law and fact to support separation. After reviewing all the separation documents, the SA directed that you be discharged with an Other Than Honorable (OTH) characterization of service for unsatisfactory participation in ready reserve. You were so discharged on 1 July 1985.

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, your request to upgrade your characterization of service and upgrade your rank to E-5. You contend there were circumstances at the time that you simply did not dispute, and your discharge has haunted you for years. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 without any other additional documentation.

After thorough review, the Board concluded that your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your unsatisfactory participation in required drills, 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 considered that you failed to fulfill your contractual obligation to the Marine Corps and that unexpectedly absenting yourself from your command placed an undue burden on your chain of command and fellow service members, and likely negatively impacted mission accomplishment. Further, the Board noted you provided no evidence, other than your statement, to substantiate your contentions. Therefore, absent substantiate evidence to the contrary, the Board determined the presumption of regularity applied in your case.

As a result, the Board determined that there was no impropriety or inequity in your rank or 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 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,

6/17/2025

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Executive Director

Signed by: █