



**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. 1609-25  
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.

A three-member panel of the Board, sitting in executive session, considered your application on 15 August 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 originally enlisted in the U.S. Marine Corps and commenced active duty on or about 14 September 2004. Your enlistment physical examination, on 25 March 2004, and self-reported medical history both noted no psychological or neurological issues, symptoms, history, or counseling. Your last reenlistment on active duty occurred on or about 12 February 2020.

On 20 June 2023, civilian authorities in █ indicted you and charged you with: (a) rape in the 3rd degree x 2 counts, of a child under the age of sixteen; (b) sodomy in the 3rd degree x 4 counts, with a child under the age of sixteen; and (c) sexual abuse in the 2<sup>nd</sup>

degree x 3 counts.<sup>1</sup> All of the counts as charged were “Class C” felonies in ██████████. The rape and sodomy charges were alleged to have occurred “on or between August 1, 2019, and February 10, 2020.” The 2nd degree sexual abuse charges were alleged to have occurred on or about 18 October 2020.

At all relevant times during your charged misconduct, indictment, felony conviction, and incarceration, you were serving in a USMC recruiting billet, commensurate with your Career Recruiter MOS 8412. The female victim’s date of birth was 11 February 2004 and, at all relevant times, she was a student at ██████████. You initially met the female victim while on a recruiting visit to her high school.

On 25 July 2024, pursuant to your guilty pleas, you were convicted in the ██████████ ██████████ of each of the three (3) counts of sexual abuse in the 2<sup>nd</sup> degree. The victim in your case was the female high school student you initially met while on a recruiting visit. Pursuant to a negotiated plea agreement, all of the other six (6) felony counts as charged were dismissed.

The Court sentenced you to confinement for thirty (30) days and supervised probation for three (3) years, subject to certain general and special probation conditions. The Court also required you to: (a) register as a sex offender pursuant to ██████████ Revised Statutes, (b) submit a blood or buccal sample and a thumbprint, and (c) report to supervisory authority by 25 July 2024 at 12:00pm to being your term of confinement.

At the commencement of your civilian confinement, the Marine Corps determined your absence was unexcused, thus placing you in an unauthorized absence (UA) status, given that you were absent from your appointed place of duty.<sup>2</sup>

On or about 6 August 2024, your Marine Corps command notified you of administrative separation proceedings by reason of misconduct due to the commission of a serious offense. On 9 August 2024, you elected in writing, *inter alia*, your right to request a hearing before an administrative separation board (Adsep Board).

On 9 August 2024, your command issued you a “Page 11” counseling sheet (Page 11) documenting your guilty plea and conviction of three (3) counts of sexual abuse in the second degree by the ██████████. The Page 11 stated the following, in part:

These actions dishonor our Corps' values, discredit individual integrity, erode unit cohesion, and negatively impact and jeopardize mission success. Specific

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<sup>1</sup> The text of the specific statute (██████████ Revised Statutes 163.425), is as follows:

- (1) a person commits the crime of sexual abuse in the second degree when:
  - a) the person subjects another person to sexual intercourse, oral or anal intercourse or...penetration of the vagina, anus or penis with any object other than the penis or mouth of the actor and the victim does not consent thereto...
- (2) Sexual abuse in the second degree is a Class C felony.

<sup>2</sup> Being placed in a UA status was significant because the Department of the Navy treats civilian incarceration as time lost/unexcused absence, and each day incarcerated - and thus in a UA status - *was added* onto the end of your enlistment contract *day-for-day*, and did not count towards accruing active duty service for retirement eligibility.

recommendations for corrective action are to obey all Articles of the UCMJ and to seek assistance, which is available through the chain of command, Mental Health, the MFLC and the Chaplain.”

I understand that failure to complete my enlistment contract with an honorable characterization of service may preclude my eligibility for benefits from the Department of Veterans Affairs or other organizations and have an adverse effect on future civilian employment.

I understand that I am being processed for the following judicial or adverse administrative action: administrative separation in accordance with Para. 6210.6 of MCO 1900.16, MARCORSEPMAN: (Commission of a Serious Offense).

You elected not to submit a Page 11 written rebuttal statement.

On 20 August 2024, you were released from civilian custody. As previously mentioned, your absence from the Marine Corps during your term of confinement was not excused.

On 3 October 2024, an Adsep Board convened in your case. At the Adsep Board, you were represented by counsel and you provided an unsworn statement on your own behalf. Following the presentation of evidence and any witness testimony, the Adsep Board members unanimously determined that the preponderance of the evidence proved all acts or omissions as alleged in the administrative separation notification. Subsequent to the misconduct finding, the Adsep Board members unanimously recommended that you be separated with an under Other Than Honorable conditions (“OTH”) discharge characterization. The Adsep Board members also unanimously voted not to suspend your separation. One of the Government exhibits included a written transcript of your confession concerning certain charged misconduct given to a █ Deputy District Attorney on or about 22 September 2023. The Adsep Board record does not reflect that your defense counsel ever submitted a post-board letter of deficiencies.

Your commanding officer (CO) recommended to the Deputy Commandant, Manpower and Reserve Affairs at Headquarters, U.S. Marine Corps (hereinafter the Separation Authority, or “SA”) that you should receive an OTH characterization of service. On 4 October 2024, █

█ similarly recommended to the Separation Authority that you receive an OTH discharge characterization. In his endorsement, the █ stated, in part:

I fully concur with the █ CO’s endorsement: █ actions as substantiated through his guilty plea in █ and as substantiated by the board are not in keeping with our core values. This is unquestionably a significant departure from the conduct expected of a Marine, let alone one of his experience and time in service.

On 10 October 2024, the SA approved and directed your OTH discharge, without suspension in the grade of Staff Sergeant (E-6). Ultimately, on 10 October 2024, you were separated from the Marine Corps for misconduct with an OTH discharge characterization, and were assigned an RE-

4 reentry code.<sup>3</sup> Upon your discharge, you were administratively reduced in rank/grade down to Lance Corporal (E-3) in accordance with Marine Corps directives and policy.

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 placement on the retired list. You contend that: (a) throughout your two decades of service, you consistently demonstrated exceptional commitment to the Marine Corps, as reflected in numerous commendations, awards, and positive performance evaluations, (b) your actions have directly impacted the lives of countless Marines and recruits, embodying the core values of honor, courage, and commitment, (c) despite facing personal and professional challenges, including allegations that ultimately led to your separation, you continued to fulfill your duties with professionalism and dedication, (d) your OTH discharge, imposed following civilian legal proceedings and administrative separation proceedings, does not reflect the totality of your service or the mitigating circumstances surrounding the events in question, (e) your OTH characterization imposes severe collateral consequences that are disproportionate to the circumstances and fail to account for your remarkable record, length of service, remorse, and demonstrated rehabilitation, (f) you seek a fair and equitable review of your case, and you humbly request that your discharge be upgraded to "Honorable" and that you be restored to the retired list to reflect your overall meritorious service to the Marine Corps and your country, (f) the MARCORSEPMAN establishes clear limitations on the characterization of service in cases involving misconduct from prior enlistments, and the USMC's reliance on misconduct alleged to have occurred in 2018 – prior to your reenlistment in 2019 – constitutes a procedural violation, and (g) by allowing you to reenlist, the Marine Corps implicitly determined that any prior allegations of misconduct did not disqualify you from continued service. 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 these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious as to deserve service credit towards retirement and placement on the retired list, a discharge upgrade, and/or the removal of certain adverse information in your service record. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record, even after nearly twenty (20) years of active service. 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 involving sex offenses with 16-year old female was intentional and willful 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.

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<sup>3</sup> At the time of your OTH discharge, you had completed approximately nineteen (19) years, eleven (11) months, and twenty-seven (27) days of active service.

The Board noted that your offenses were particularly egregious in that it involved sexual misconduct with a high school-aged female, whom you first met while acting in your official capacity as a Marine Corps Recruiter. The Board concluded that your misconduct was not minor in nature, that your serious misconduct and failure to conform to basic military standards of good order and discipline for a service member of your rank and tenure, and all further justified your OTH characterization prior to reaching retirement eligibility.

The Board determined there was no evidence in the record regarding any command misconduct, improper motives, or abuses of discretion or judgment in the investigating, handling, and processing of your post-conviction administrative separation. The Board determined that your administrative separation was legally and factually sufficient, not violative of your due process rights, and fully in compliance with all Department of the Navy directives and policy at the time of your discharge.

Additionally, while the Board determined that your contention that the Adsep Board and/or Marine Corps' purported reliance on misconduct occurring prior to your last enlistment constituted a procedural violation, the Board determined your contended issue is moot. In reviewing the timeline of your misconduct, three counts/offenses you pleaded guilty to committing, namely sexual abuse in the second degree, were charged to have occurred on or about 18 October 2020; long after your final reenlistment occurred. Therefore, the Board found that, even if the consideration of your pre-enlistment misconduct was hypothetically not authorized<sup>4</sup>, it amounted to harmless error.

The Board also determined that federal law, namely 10 U.S.C. § 1176, does not afford you the ability to retire because you had accrued eighteen or more years of service. The Board determined that no such statutory "sanctuary" exists for cases involving misconduct and the Board concluded you were properly discharged, based on the facts of your case, "under any other provision of law," as expressly permitted under 10 U.S.C. § 1176(a).<sup>5</sup>

The Board also unequivocally disagreed with any suggestion that relief is warranted because previous federal decisions and/or the Board has previously granted a discharge upgrade with an analogous/similarly situated Petitioner. The Board noted that no two Board cases are comparable given the obvious factual differences inherent with each individual case. Moreover, the Board's three-member composition is random in nature and is not comprised of the same members each day. Accordingly, while previous federal or Board decisions may initially appear inconsistent with other adjudicated cases, such decisions actually reflect a Board's careful and thoughtful analysis of the specific facts and circumstances of each Petitioner, and do not establish binding or compelling precedent for subsequent boards whatsoever.

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<sup>4</sup> However, after concluding your post-reenlistment misconduct supported the basis for your separation and assigned characterization of service, the Board concluded the alleged error was harmless and chose not to make any determination regarding the matter. The Board also found no evidence you were the victim of an injustice since you were, at a minimum, erroneously allowed to reenlist based despite having committed serious sexual misconduct.

<sup>5</sup> The Board determined that any suggestion your official retirement eligibility date had passed before the Marine Corps separated you was unsupported by the preponderance of the evidence. The Board concluded that your unexcused "time lost" while spent in civilian confinement in a UA status, tolled your accrual of active duty service for retirement eligibility day-for-day.

Lastly, the Board was deeply troubled with your shifting acceptance of responsibility for your substantiated crimes. The Board noted you provided a confession in September 2023 admitting to committing certain sex offenses. Subsequently, you subsequently pleaded guilty to three (3) class C felonies in court in July 2024. However, the Board noted in that, in your personal statement accompanying your current petition for relief, you now deny ever having committed any crimes. You stated, in part:

“I still hold firm to never having had sex with that girl and only taking the plea agreement because I thought I had my retirement, the advice from my lawyer to make the proffer and fear of losing in trial and going to jail for 40 years.”

The Board determined that your morphing and/or changing narrative as outlined in your personal statement cannot be factually reconciled with either your confession and subsequent guilty plea, or with information from your service record, and it seriously undermined your credibility with the Board.

While the Board carefully considered, *inter alia*, your counsel’s brief and any and all matters submitted regarding your character and reputation, post-service conduct, and personal/professional accomplishments while on active duty, despite such evidence and any matters submitted in extenuation and mitigation, the Board unanimously determined that there was no impropriety or inequity in your discharge, and the Board 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. Ultimately, the Board concluded the extenuation and mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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,

8/18/2025

