



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. 2284-25
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 19 May 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 1992. On 26 May 1993, you received nonjudicial punishment (NJP) for operating a vehicle under the influence of alcohol and underage drinking. Between 27 July 1993 and 5 August 1994, you were counseled concerning involvement in numerous acts of misconduct, lack of judgement, poor military respect towards NCOs, lack of self-discipline, and unacceptable conduct. You were advised that failure to take corrective action could result in administrative separation.

Between 8 August 1994 and 19 October 1994, you were deployed in support of Operation Restore Democracy. While deployed, you were counseled concerning poor judgement and lack of discipline; specifically smoking a cigarette during hours of darkness. On 7 January 1995, you received a second NJP for a period of unauthorized absence (UA) from appointed place of duty. You were counseled concerning substandard performance, specifically for numerous periods of UA. You were advised that failure to take corrective action could result in administrative

separation. On 11 April 1995, you were arrested by civilian authorities for a simple assault incident involving a handicapped person. On 6 June 1995, you received a third NJP for a period of UA from appointed place of duty.

On 23 June 1995, you were counseled concerning the development of a pattern of misconduct. You were advised that failure to take corrective action could result in administrative separation. On 2 August 1995, you were counseled concerning your alcohol and drug related incident. You were advised that failure to take corrective action could result in NJP. Between 4 August 1995 and 25 October 1995, you received two NJPs for two instances of disobeying lawful orders. On 29 November 1995, you were evaluated by a medical officer and diagnosed with Alcohol Dependency with Antisocial Personality.

On 9 January 1996, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to minor disciplinary infractions; at which point, you decided to waive your procedural rights. Your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service and the separation authority approved the recommendation. On 13 February 1996, you were so discharged.

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 informed that your discharged could be upgraded six months following your separation and without any problems, (b) if this correction is made, you will be able to use your Department of Veterans Affairs (VA) benefits and send your kids to college, (c) you loved being a Marine and actively participate in every Veterans' Day, (d) your main goal while joining the military was to play football for your battalion and serve, (e) you were disliked by a staff sergeant who did not favored you and denied you any goals and career paths you wanted to pursue, (f) you requested to speak to your commanding officer but were denied, (g) you were assaulted by several individuals and were punished because of your previous infractions, (h) you got married, got children, and own your own construction company. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, four character letters of support, VA decision letter and intent to file letter, four certificates of completion, and a certificate of promotion.

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 civil arrest, 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. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities.

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 and commends you for your post-discharge good character, 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 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,

6/4/2025

