



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

██████████  
Docket No. 2357-25  
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 14 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, and applicable statutes, regulations, and policies, to include to 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 21 November 1975. On 6 July 1976, you commenced a period of unauthorized absence (UA) that ended with your apprehension by civil authorities on 11 August 1976. During this period of UA, two letters were sent to your family at your next-of-kin's home address informing them of your UA and, later, deserter status. At the time of your apprehension by civilian authorities, they noted that you had a copy of the DD form 553 in your possession; which identified that you were in a deserter status and wanted by the Armed Forces.

You were returned to military authority and placed into pre-trial confinement on 31 August 1976. On 2 September 1976, you submitted a voluntary written request requesting a discharge for the good of the service to escape trial by court-martial. Prior to submitting the voluntary discharge request, you conferred with a qualified military lawyer, were advised of your rights, and warned of the probable adverse consequences of accepting such a discharge. Further, you acknowledged that your characterization of service upon discharge would be undesirable. A legal review memorandum from the Staff Judge Advocate noted your recalcitrant attitude and desire not to remain in the Marine Corps. It further documented your assertion that you would absent yourself again if you were not discharged. On 4 October 1976, Commanding General, Marine Corps ██████████, approved your request for an undesirable discharge and you were so discharged on 6 October 1976.

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 and your contentions that you left the base on a three-day weekend to return your girlfriend home but were delayed when your car broke down, you sought advice from your local recruiter on how to get back to the base, you were told someone would come pick you up, you waited approximately 30 days and the sheriff's office picked you up at your parent's house and put you in jail, a colonel told you that you could be facing 10 years of imprisonment and your JAG attorney told you there were no options for fighting your discharge, you regret not fighting your discharge, and claim that you had intended to stay in the service as a career. In support of your request and for the purpose of clemency and equity consideration, you submitted a personal statement and letter of support.

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 good of the service request and extended UA, 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 that you provided no evidence, other than your statement, to substantiate your contention that your misconduct was due to a misunderstanding. Further, the Board noted that you consulted qualified legal counsel prior to determining that it was in your best interests to submit a voluntary request for a discharge for the good of the service to escape trial by court-martial. In your request, you stated, "I acknowledge that I seek to avoid the stresses of further service, that I am unwilling to make further effort to adjust to military life and I desire to escape trial by court-martial and the likely punishment that would result therefrom." In the Board's opinion, this was unequivocal evidence that you desired to be discharged from the Marine Corps and is consistent with other documentation in your record that reflects, contrary to your contentions, that you wanted out of the Marine Corps regardless the costs. 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.

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 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 is attached 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

