



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

██████████
Docket No. 2389-25

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 4 April 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).

You enlisted in the U.S. Marine Corps and began a period of active duty service on 27 January 1979. Your enlistment physical examination, on 20 November 1978, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms.

On 5 July 1979, you were an academic drop from your Aviation Maintenance Course for a "lack of knowledge application." On 21 August 1979, you received non-judicial punishment (NJP) for assaulting another USMC Private (E-1).

On 2 June 1980, you received NJP for insubordinate conduct. You did not appeal your NJP. On 6 June 1980, your command issued you a "Page 11" counseling sheet (Page 11) documenting your failure to muster at the proper time with the Duty NCO while on restriction. On 20 June

1980, your command issued you a Page 11 documenting your unsuitable physical appearance due to improper weight distribution.

On 17 January 1981, you received NJP for insubordinate conduct. You did not appeal your NJP. On 24 February 1981, your command issued you a Page 11 documenting your substandard performance, poor personal appearance, and general bad attitude.

On 22 March 1981, you received NJP for dereliction in the performance of your duties. You did not appeal your NJP.

On 5 February 1982, you were convicted at a Special Court-Martial (SPCM) of: (a) wearing camouflage utility trousers without your camouflage utility shirt, (b) wrongfully carrying a concealed weapon, and (c) assault with a dangerous weapon. The Court sentenced you to confinement at hard labor for five (5) months, a reduction in rank to the lowest enlisted paygrade (E-1), forfeitures of pay, and to be discharged from the Marine Corps with a Bad Conduct Discharge (BCD).

On 20 April 1982, you waived in writing any clemency review by the Naval Clemency and Parole Board. On 5 May 1982, the General Court-Martial Convening Authority approved the SPCM sentence as approved by the Convening Authority. Upon the completion of SPCM appellate review in your case, on 27 October 1983, you were discharged from the Marine Corps with a BCD and were assigned an RE-4 reentry code.

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 change to your reentry code. You contend that: (a) your request is made for reasons of clemency, (b) post-service you have earned an Associate's Degree, and (c) you are a licensed electrician and have maintained steady employment. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application.

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 a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that a BCD characterization is generally warranted for serious 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 cumulative misconduct 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.

The Board noted that, although it cannot set aside a conviction, it might grant clemency in the form of changing the characterization of discharge, even one awarded by a court-martial. However, the Board concluded that despite your contentions this was not a case warranting any

clemency as you were properly convicted at a SPCM of serious misconduct. Additionally, the Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your BCD. 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.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your cumulative 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 on your post-discharge rehabilitation, 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 equity¹. 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 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,

4/15/2025

the same time, it is important to note that the results presented here are based on a cross-sectional design. Future research should investigate the longitudinal effects of these factors on mental health outcomes.

¹ The Board noted that your DD Form 214 contains an administrative error with your assigned narrative reason for separation. It reflects you were discharged at the end of your obligated active service vice your court-martial conviction. Consistent with existing policy, the Board declined to recommend a change to your record that would potentially have a negative effect.