



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

[REDACTED] Docket No. 2412-25

Ref: Signature Date

[REDACTED]

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 you did not file your application in a timely manner, the Board waived the statute of limitation in the interests of justice. A three-member panel of the Board, sitting in executive session, considered your application on 15 September 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 Marine Corps and began a period of active duty on 15 June 1972. You initially absented yourself without authority from 21 November 1973 through 27 November 1973 after failing to properly check out on liberty. As a result, you were subject to nonjudicial punishment (NJP) for violations of the Uniform Code of Military Justice (UCMJ) under Articles 86 and 92, respectively, for your unauthorized absence (UA) and for failure to obey a lawful order to check out on liberty. Following a second UA period from 19 March 1974 through 29 March 1974, you received a second NJP for another Article 86, UCMJ, violation.

On 12 June 1974, you failed to return from authorized leave and remained absent for nearly two years until, on 16 April 1976, you were arrested by civilian authorities and returned, under guard, to military authority. By that time, you had married and obtained civilian employment. The charge and specification for your prolonged UA period was referred to trial by Special Court-

Martial (SPCM), after which you consulted legal counsel and submitted a voluntary request for separation for the good of the service and to escape trial. Following legal review of your request, Commanding General, [REDACTED], approved your undesirable discharge in lieu of trial. At that time of your discharge on 13 May 1976, your proficiency and conducts fell below that required for an Honorable characterization of service. Additionally, your three years, 10 months, 28 days of net active duty service included lost time of 669 days due to your UA periods.

You previously applied to the Naval Discharge Review Board (NDRB) on 31 December 1980. However, the NDRB review was not available in your official military personnel file.

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 undesirable discharge to Honorable and change your narrative reason for separation to reflect "Secretarial Authority." You contend that you are unjustly stigmatized by your discharge in contrast to the person who you have become in the many years since your separation in lieu of trial. You believe your discharge should be upgraded on the basis of clemency and equity, with specific attention to the following factors: you felt unqualified for your position in nuclear biological warfare and were inadequately trained, your concern for your lack of qualification were expressed to your commanding officer but disregarded, your GCT score was only 77, you made a poor decision to leave due to these fears, youthful indiscretion and immaturity contributed to your lack of sound judgment, and, it has been 50 years since his discharge, during which you have remained gainfully employed and have taken care of your family. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and the evidence you provided in support of your application.

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 request to be discharged for the good of the service, 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. Further, the Board also noted that the misconduct that led to your request to be discharged for the good of the service 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.

The Board considered that nearly half of your net active duty service was marred by your UAs, to include a sufficiently prolonged period during which you did not appear to intend to return. Even if you had initially feared returning from leave due to the potential of failing an inspection, that would neither explain nor justify remaining absent for over 20 months until being taken into custody due to your deserter status.

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,

11/18/2025

