



Docket No. 2941-25
Ref: Signature Date

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 25 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).

You enlisted in the Marine Corps and commenced active duty on 24 May 1973. On 4 October 1973, you received non-judicial punishment (NJP) for three-and-a-half hours of unauthorized absence (UA). On 18 October 1973, you commenced a period of UA that ended in your apprehension by civil authorities on 22 October 1973. On 23 October 1973, you received NJP for the four days of UA. On 29 October 1973, you received NJP for breaking restriction. On 28 November 1973, you received NJP for dereliction of duty for sleeping on post. On 2 January 1974, you commenced a one-day-period of UA. On 23 January 1974, you entered Substance Abuse Rehabilitation. On 1 February 1974, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 4 February 1974, you received NJP for possessing two different identification cards and possessing an altered identification card with intent to deceive. On 3 March 1974, your substance abuse rehabilitation ended. On 27 March 1974, you received formal written counseling from your commanding officer concerning

deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 2 December 1974, you received NJP for disrespect to a commissioned officer and failure to obey a lawful order. On 14 February 1975, you commenced a period of UA that ended in your surrender on 24 February 1975. On 27 March 1975, you pleaded guilty at Special Court Martial (SPCM) for the UA and were sentenced to forfeiture of pay.

Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. You elected to consult with legal counsel and waived your rights to submit a statement or have your case heard by an administrative discharge board. In the meantime, on 3 June 1975, you commenced a period of UA that ended in your surrender on 11 June 1975. On 20 June 1975, you commenced a final period of UA that ended on 8 Aug 1975. The separation authority subsequently directed your discharge with an OTH characterization of service and you were so discharged on 2 September 1975.

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 change your discharge characterization of service¹ and your contentions that you were subjected to repeated harassment, your harassment included those from your commanding officer, you were written up based on false allegations, and you went UA as a result of your commanding officer berating you while you were in your room recovering from an injury. You also checked the "PTSD" and "Mental Health" boxes on your application but did not include any amplifying information or evidence in support of that claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, your personal statement, and the active-duty medical record pages you provided.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and SPCM, 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, the Board noted you provided no evidence, other than your statement, to

¹ You also checked the "Disability" box on your application but specifically requested "an upgrade of my military discharge from 'Other Than Honorable' DD258 to Honorable." While you also stated you were requesting an upgrade to "get it changed due to my medical condition recently diagnosed that I had while in service," the Board considered this as a request to consider medically related mitigation evidence in support of an upgrade to your characterization of service rather than a change to your narrative reason for separation to "disability." The Board noted that you were ineligible for disability processing or discharge based on your administrative separation for misconduct that resulted in an OTH characterization of service.

substantiate your contentions. Therefore, the Board was not persuaded by your contentions that you were the victim of harassment or false allegations².

The Board noted that you raised allegations of mistreatment against your commanding officer and staff sergeant to your congressional representative. In your complaint, you claimed you were being recommended for separation based on racism and your allegations were forwarded by your Congresswoman to the Department of the Navy Office of the Inspector General on 24 September 1974. Your allegations were investigated and determined to be unsubstantiated, in part, because no other Marine raised similar complaints of racism. Notwithstanding the fact your allegations were deemed unfounded, after the review, your administrative discharge recommendation was held in abeyance and you were allowed to continue your service. Despite your command's significant efforts to assist you with your conduct issues, you continued your pattern of UAs³ and disrespect that led to your eventual separation.

Finally, the Board was not persuaded that your active duty medical issues were related to your misconduct. The Board considered the military medical records you provided which annotate your leg condition and bilateral hearing loss but found no reasonable nexus between these conditions and your instances of misconduct. In reaching their conclusion, the Board noted you separately claim that your misconduct was due to harassment and false allegations. Therefore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions.

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 Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and 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 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

² In reviewing your record, the Board noted you provide different rationale for your misconduct at different times. These morphing contentions raised serious questions regarding your reliability as a historian and your candor in this matter.

³ Your UAs continued even while you were pending final approval of your administrative separation.

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,

9/8/2025

