



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

██████████
Docket No. 3252-25
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 7 July 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).

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 commenced active duty on 15 September 1976. On 8 June 1977, you received non-judicial punishment (NJP) for unauthorized absence (UA) for approximately a 24 hour period. On 4 August 1977, you commenced a second period of UA that ended on 31 October 1977. On 7 November 1977, you commenced a third period of UA that ended on 24 January 1978.

On 10 February 1978, you were charged with violating Article 86 of the Uniform Code of Military Justice for the two periods of UA. On 27 February 1978, you submitted a hand-written

letter to your command requesting discharge for the good of the service and in order to escape trial by court-martial. However, your request was disapproved on 14 March 1978.

Subsequently, on 11 April 1978, you were notified of intended administrative separation processing for misconduct based on fraudulent enlistment into the Marine Corps. Your record indicates you had not completed the 10th grade and your recruiter provided false information to secure your enlistment. You consulted with legal counsel, acknowledged your understanding of the intended administrative separation, and indicated you did not desire to submit a statement.

Your chain of command recommended to the separation authority that you be discharged with a General (Under Honorable Conditions) (GEN) characterization of service. On 24 April 1978, the Staff Judge Advocate for your command reviewed your intended separation and found it sufficient in law and fact. Thereafter, the separation authority directed your discharge and you were so discharged on 10 May 1978.

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 service to Honorable (HON), and your contentions that you were approached by a Marine Corps Judge Advocate (JAG), on about 7 May 1978, asked you to leave the Marines because of an injustice committed by your recruiter. You contend the JAG officer informed you that your recruiter was going to be court-martialed for falsifying your high school diploma. You state the JAG officer also said you would be court-martialed if you did not agree to leave the Marines immediately. You state you agreed to the request only if he would receive an HON discharge and were released from the Marines a few days after. This left you short of fulfilling your contract and was not due to your own actions. You finally state that the Department of Veterans Affairs (VA) granted you a service connected disability benefits but you do not qualify for some state benefits due to your GEN characterization of service. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and your VA decision documents.

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 NJP and two lengthy periods of UA, outweighed these mitigating factors. In making this finding, the Board considered the totality of your service, and noted that, although you were ultimately separated for fraudulent enlistment, your service was marred by your multiple periods of UA. The Board considered this misconduct and the repeated nature and lengths of your absences, and determined it likely had a negative impact on the good order and discipline of your command. Further, the Board determined you already received a large measure of clemency when the convening authority agreed to administratively separate you for your fraudulent enlistment instead of misconduct and assigning you a GEN characterization of service. The Board noted you were fortunate to have received a GEN characterization of service when your misconduct normally would have warranted an Under Other Than Honorable Conditions (OTH) characterization. Moreover, the Board considered that your conduct trait average was 2.6 and did not meet the threshold requirement for an HON discharge. 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.

