



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

██████████  
Docket No. 3346-25  
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 16 May 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 Reserve (USMCR) on or about 11 August 1989. As part of your USMCR enlistment application you signed and acknowledged the "Statement of Understanding Upon Enlistment in the Marine Corps Reserve Optional Enlistment Program" (SOU). The SOU informed and expressly advised you, and you understood and acknowledged that, including, but not limited to: (a) satisfactory participation consists of attendance at and satisfactory performance of 48 scheduled drill periods, and not less than 14 days (exclusive of travel time) of Active Duty Training (ADT) during each year of your contract, (b) you would be required to attend drills and ADT periods as prescribed, and understood that failure to do so may result in your being ordered to active duty by the Commandant of the Marine Corps for a period of two (2) years less any period of active duty or active duty for training you may have already served, (c) while in a drill unit status you would not be excused from active duty for training for the purpose of attending college, and (d) understood that you must keep your commanding

officer informed of your current address and phone number at all times. The SOU clearly states that it will become an attachment to your enlistment contract, and that your SOU and your Marine Corps application constituted the entirety of your enlistment agreement with the Marine Corps.

You commenced Marine Corps initial recruit training on 2 February 1990 and were honorably discharged at the completion of your required active service on 13 June 1990. Upon your discharge, you were initially assigned to a drilling USMCR unit located at ██████████  
██████████ You subsequently mobilized on 21 August 1990 and were honorably discharged on 16 October 1990. Following your completion of required active service, you commenced monthly drilling with your USCMR unit.

During one of your drill weekends in late 1990, you injured your back in the line of duty. Your command requested and received authorization for you to receive continued medical care effective on or about 3 December 1990. Your treatment would terminate on 31 December 1991 or upon a finding of being fit for duty; whichever occurred first. In order for you to continue to receive care at military medical facilities or at VA hospitals for your injury, you were required to forward medical documentation every thirty (30) days to ██████████  
██████████ You were required to forward actual medical documentation; telephonic updates were not acceptable.

After you failed to submit the required documentation in a timely fashion, on 3 February 1991, ██████████ requested you to submit the appropriate medical treatment records to the ██████████ prior to 28 February 1991. ██████████ specifically requested a current evaluation/prognosis regarding your thoracic sprain.

You again failed to submit the required documentation in a timely fashion and, on 1 April 1991, ██████████ requested you to submit the appropriate medical treatment records to the ██████████ prior to 30 April 1991. This notification letter indicated that you did not also submit any required information during March 1991.

Due to your failure to submit any required medical documentation, on or about 8 May 1991, Headquarters, Marine Corps terminated your eligibility to receive continued medical treatment at military medical facilities or at VA hospitals.

In December 1992, your command administratively reduced you in rank to Private First Class (E-2) due to your unsatisfactory participation in the USMCR. Your command also revoked your "not physically qualified" status for your non-compliance and failure to provide any monthly medical updates. In the same correspondence, your command advised you that you have failed to attend scheduled monthly drills since October 1991.

On 28 February 1993, your command notified you that you were being processed for an administrative discharge (Adsep) by reason of unsatisfactory participation in the ready Reserve. Your command delivered the Adsep notice and election of rights form to you in person. You waived in writing your rights to consult with counsel, include written statements, and to request a hearing before an Adsep board.

On the same day, your commanding officer (CO) recommended to the Separation Authority (SA) that you receive an under Other Than Honorable conditions (OTH) discharge characterization due to your unsatisfactory participation in the USMCR based on your excessive unexcused absences. In his recommendation, your CO stated in pertinent part:

I recommend that ██████████ be discharged from the United State Marine Corps Reserve for Unsatisfactory Participation in the Ready Reserve. I further recommend that the characterization of service be Under Other than Honorable Conditions.

His absences are centered around a back injury. He was first NPQ in July 1990, but was found fit for full duty the next month. On 1 December 1990, while at regular drill, he felt a sharp pain in his back. A Notice of Eligibility (NOE) was approved on 15 February 1991. His command was mobilized to ██████████ from February 1991 to June 1991 in support of ██████████ however, ██████████ was not physically qualified and did not participate. Throughout the periods of December 1990 and April 1991, requests for medical documentation as required under the NOE program were ignored, his NOE was terminated in March 1991.

██████████ has failed to produce evidence of further injury. He has failed to respond to attempts to notify him and has not apprised this command of status of location changes. Due to his injury he had been mustered as excused absences. These absences were changed to unexcused in November 1992. ██████████ notified of my intent to reduce him for Unsatisfactory Participation in December 1992. This letter was returned unclaimed. He was reduced on 25 Dec 92. A notification of Separation Proceedings was sent to ██████████'s last known address on 18 January 1993. This certified letter was returned on 16 February 1993 unclaimed.

On 11 February 1993, positive contact was made with ██████████ said he had not received any correspondence from this command. A Notification of Separation Proceedings was again mailed to the address provided by his roommate and verified by him. This address was exactly the same as the address of the letter later returned unclaimed. Further contact on 23 February 1993 showed that ██████████ had not received the letter of notification sent on 11 February 1993. ██████████ was invited to attend drill on 28 February 1993 and was personally served his Notification of Separation Proceedings where he waived his right to an admin board.

On 18 March 1993, the Staff Judge Advocate to the SA determined your administrative separation was legally and factually sufficient. On 19 March 1993, the SA approved and directed your OTH discharge characterization for unsatisfactory participation in the Ready Reserve. Ultimately, on or about 19 March 1993, you were discharged from the USMCR with an OTH discharge characterization 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 contentions that: (a) you were discharged without a clear understanding of the reasons or implications and without proper representation, (b) during a weekend duty assignment, you sustained a severe back injury while serving, (c) following your injury, you were unable to return to your reserve duty, (d) despite your condition, you did not receive any follow-up communication regarding your status or well-being, (e) you were not adequately informed of your rights and options at the time of your separation/discharge, nor were you provided proper representation, (f) as a result, you were unable to fully understand the implications of the process, (g) you would like to appeal on the grounds of insufficient due process, lack of fair treatment, and the fact that your discharge reason (failure to participate) resulted from circumstances beyond your control, (h) you were not given the opportunity to fully comprehend or respond to the proceedings with appropriate representation, and (i) post-service you have dedicated yourself to serving your family, and contributing to your community through volunteer work; including coaching and serving as a board member. 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 otherwise believe that your record was otherwise so meritorious to deserve an upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The simple fact remained is that you failed to attend certain regularly scheduled weekend drills while you were still contractually obligated to serve without any legal justification or excuse, and that your cumulative absences deemed you an unsatisfactory participant in the USMCR. You also consistently failed to submit any required medical documentation to your command. The Board determined that the record clearly reflected your 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 was not persuaded by your due process contentions. The Board found insufficient evidence to support your contentions suggesting that you were somehow not adequately informed of your rights and options at the time of your separation/discharge, not provided proper representation, or unable to fully understand the implications of the Adsep process. The Board noted that the Adsep notification letter you received in person clearly listed all of your enumerated rights in connection with the proposed separation proceedings, including the right to consult with counsel prior to electing or waiving any rights. Upon being fully advised of all of your rights, the record shows you knowingly, intelligently, and voluntarily waived all of your rights in connection with your proposed Adsep.

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 in 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 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 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,

5/27/2025

