



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

[REDACTED]
Docket No. 3505-25
Ref: Signature Date

[REDACTED]
[REDACTED]
[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 30 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 Marine Corps under a Musician Enlistment Option and began a period of active duty on 10 October 1990. On 23 May 1991, you were issued administrative counseling advising you to correct your deficiencies regarding an unauthorized absence (UA) and failure to shave. On 26 June 1991, you were subject to nonjudicial punishment (NJP) for two violations of the Uniform Code of Military Justice under Articles 91 and 92, respectively, for disobeying band rehearsal instructions and for falling asleep twice during concert band rehearsal. You were issued two additional corrective counseling entries in August of 1991; first, for failing to muster for duty supernumerary due to being late and, second, for failure to obey watch regulations. On 29 January 1992, you received a second NJP for violating Article 86 of the UCMJ due to an unauthorized absence and Article 92 by failure to go to your appointed place of duty in the proper uniform. Your third NJP, on 8 May 1992, spurred your chain of command to recommend your separation after you were punished for another Article 86, UA, violation and for two specifications of violations of Article 91 by willfully disobeying an order from a corporal to report to the have your trumpet repaired and for being disrespectful by saying to that corporal that you did not have time and would talk about it later. The recommendations for your

separation noted that you demonstrated an inability to follow rules, were deficient in proficiency on your instrument, and that your discharge would open a position for a more deserving individual. On 13 May 1992, you were notified of processing for administrative separation by reason of misconduct due to a pattern of misconduct and you requested a hearing before an administrative separation board (ADB). The ADB convened on 18 June 1992, concluded that the basis for separation was substantiated by a preponderance of the evidence, and recommended your discharge under Other Than Honorable (OTH) conditions due to your repeated misconduct. In your statement responding to this recommendation, you expressed that you did not understand the reasoning behind the adverse characterization of service due to your short time in the Marine Corps and the minor nature of your offenses. However, your separation was approved under OTH conditions following completion of legal review and you were so discharged on 30 July 1992.

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 discharge and contentions that you performed well during your Marine Corps service. You submit a detailed personal statement in support of your request in which you assert that you received three letters of appreciation for playing at funerals and that you performed all over the country during your service. In the years since your discharge, you state that you have become a youth leader at your church, conduct community outreach programs such as assisting in food programs, provide free DJ services for veteran events, participated in a gift event for children with cancer, and even help pay for people to use the public laundry. You admit that the basis for your incarceration was due to having received four offenses for driving while intoxicated within approximately 10 years; however, you claim that you are a member of the veteran group, are a peer educator, have participated as part of the unit color guard, and volunteer for inmate suicide watch while working on maintaining an honorable life and participating in Alcoholics Anonymous. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of the personal statement and DD Form 214 you included with your DD Form 149 without any other additional documentation.

After thorough review, the Board concluded the potentially mitigating factors were insufficient to warrant relief at this time. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and multiple counseling warnings, outweighed the 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 substantiate your contentions.

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. 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.

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,

6/25/2025

