



**DEPARTMENT OF THE NAVY**

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

[REDACTED] Docket No. 3516-25

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 interest of justice. A three-member panel of the Board, sitting in executive session, considered your application on 30 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 29 July 1980. On 25 June 1981, you were subject to nonjudicial punishment (NJP) for violation of Article 92 of the Uniform Code of Military Justice (UCMJ) after failing to prevent the use of a controlled substance by another service member. On 28 March 1983, when you received a second NJP for violation of Article 121 after shoplifting items valued at \$3.60 from the [REDACTED]. You were also issued administrative counseling advising you to correct your deficiencies and warning you that further misconduct could result in administrative separation. You incurred to, for which On 2 June 1983, you received your third NJP for two specifications of violation of Article 86, UCMJ for periods of unauthorized absence (UA) during May 1983.

Consequently, you were notified of processing for administrative separation by reason of misconduct due to a pattern of misconduct. You elected to exercise your right to request a hearing before an administrative separation board (ASB). On 2 August 1983, the ASB

convened, found the basis of separation to be substantiated, and recommended that you be discharged with an Other Than Honorable (OTH) characterization of service. While final action was pending on this recommendation, on 28 September 1983, you received a final NJP for Article 128 for assaulting a corporal by striking him in the face, Article 95 for resisting lawful apprehension by military police, and Article 91 for disrespect toward a corporal. Following legal review and approval of your administrative separation, you were discharged under OTH conditions on 16 December 1983.

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 Memos. These included, but were not limited to, your desire to upgrade your discharge and change your reason for separation. You contend that your discharge characterization is an indelible stain on your character and you seek to rectify it to reclaim your honor and restore your good name. You believe your first NJP was to make an example of you for failing to identify Marines who were smoking marijuana while you were on duty. You felt that no one wanted you back in their work section after your first NJP and you were disappointed at not being able to return to your unit. In the 25 years since your discharge, you've worked for [REDACTED] and were able to retire with dignity. In support of your post-discharge character and accomplishments, you submitted a personal statement résumé, and two character letters in addition to your legal counsel's brief. 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, 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.

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 and commends you for your post-discharge rehabilitation, 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,

12/1/2025

## Executive Director

Signed by: