



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

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Docket No. 3561-25  
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 11 April 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 and began a period of active-duty service on 8 April 2003. Your enlistment physical examination, on 7 November 2002, and self-reported medical history both noted no psychiatric or neurologic issues, symptoms, history, or counseling.

On 10 August 2003, you commenced an unauthorized absence (UA) that terminated on 31 August 2003. On 3 September 2003, you received non-judicial punishment (NJP) for your 21-day UA. You did not appeal your NJP.

On 8 September 2003, you commenced another UA. Your command declared you to be a deserter on 8 October 2003. Your UA terminated after 211 days on 6 April 2004. Your

command issued you a “Page 11” retention warning (Page 11) documenting your long-term UA. The Page 11 advised you that any further disciplinary infractions or continuation of deficient performance may result in disciplinary action and/or processing for administrative discharge. You elected not to submit a Page 11 rebuttal statement.

On 4 June 2004, pursuant to your guilty plea, you were convicted at a Special Court-Martial of a 210-day UA. The Court sentenced you to confinement for forty-five (45) days, to perform certain hard labor, and forfeitures of pay.

You were released from confinement on or about 10 July 2004. However, two days later, you commenced yet another UA. Your UA terminated on 2 August 2004. On 4 August 2004, you received NJP for your 21-day UA. You did not appeal your NJP.

On 1 October 2004, your command notified you that you were being processed for an administrative discharge by reason of misconduct due to a pattern of misconduct and commission of a serious offense. On 4 October 2004, you waived your rights to consult with counsel and to request an administrative separation board.

On 29 October 2004, the Staff Judge Advocate to the Separation Authority determined your administrative separation was legally and factually sufficient. Ultimately, on 5 November 2004, you were separated from the Marine Corps for misconduct with an under Other Than Honorable conditions (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 change to your reason for separation. You contend that: (a) you have learned from your mistakes and are now a valued member of your community, (b) you should not have to bear the burden of an OTH discharge for the rest of your life; especially considering the emotional turmoil you were experiencing at the time of your misconduct because of your feelings of betrayal by the Marine Corps, (c) you signed up for the “buddy program” but, when you arrived at ██████████, you ended up in a separate platoon from your best friend, (d) you have been improperly stigmatized and harmed by your OTH discharge, and (e) post-service you have earned your Associate’s Degree with honors and pursued a career in EMS; subsequently becoming an EMT and working on your advanced certification. 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 believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Marine. The simple fact remains is that you left the Marine Corps while you were still contractually obligated to serve and you went into a UA status without any legal justification or excuse on three (3) separate

occasions for a staggering total of approximately 252 days. 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 observed that character of military service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your overall active duty trait average calculated from your available performance evaluations during your enlistment was approximately 1.73 in conduct. Marine Corps regulations in place at the time of your discharge recommended a minimum trait average of 4.0 in conduct (proper military behavior), for a fully honorable characterization of service. The Board concluded that your low conduct marks during your active duty career were a direct result of your pattern of serious misconduct which further justified your OTH discharge characterization.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your cumulative misconduct and blatant disregard for good order and discipline while in the Marine Corps 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 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,

4/21/2025

