



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE RD  
ARLINGTON, VA 22204

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Docket No. 4393-25  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 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 22 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, 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 9 February 1979. On 19 June 1979, you began a period of unauthorized absence (UA) which lasted 62 days. On 21 August 1979, you began a second period of UA which lasted 178 days and resulted in your apprehension by civil authorities. On 22 February 1980, you were evaluated by a medical officer, diagnosed with Depression and Character Behavior Disorder, and recommended for administrative separation.

On 28 February 1980, you requested an Other Than Honorable (OTH) discharge characterization of service in lieu of trial by court martial. On 7 May 1980, you were convicted by special court martial (SPCM) for two periods of UA. You were sentenced to a Bad Conduct Discharge (BCD), confinement at hard labor, and forfeiture of pay. On 29 May 1980, you received nonjudicial punishment (NJP) for disobeying a lawful written order by being in possession of a controlled substance-marijuana. On 18 June 1980, you were approved for appellate leave; which you

commenced on 20 June 1980. On 15 July 1980, your SPCM sentence of confinement was approved by the convening authority. On 2 December 1980, you were notified of the initiation of administrative separation proceedings by reason of unsuitability due to character behavior disorder. However, this administrative action does not appear to have been processed.

On 13 March 1982, you returned to duty from appellate leave. However, between 15 May 1982 and 28 August 1985, you had two periods of UA totaling 1,254 days. Upon your return, you requested an OTH discharge in lieu of trial by court martial. After your administrative separation proceedings were determined to be sufficient in law and fact, the separation authority approved your request. On 19 September 1985, you were so discharged. Upon your discharge, you were issued a Certificate of Release or Discharge from Active Duty (DD Form 214) that erroneously annotated you received an Honorable characterization of service. On 19 September 1985, you were issued a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215) that corrected your characterization of service to OTH.

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 joined the Marine Corps to become a truck driver and were placed as infantry instead, (b) your hearing was compromised due to an M203 grenade launcher, (c) your wife was no longer able to stay in government housing due to unknown reasons, (d) your wife did not have any money and was forced to live in her vehicle, (e) you were informed by your command that you needed to finish training before being able to receive financial assistance, (f) you were informed that your wife had taken an overdose of aspirins and later passed away, (g) you were not able to cope with the passing of your wife and decided to overdose, (h) you were arrested by civil authorities for being UA as a result of your discharge paperwork not being signed, and (i) you were falsely arrested and later discharged with a General and Honorable discharge. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, your DD Form 214, your DD Form 215, the absentee declaration from your service record, and your personal statement.

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 NJP, SPCM, extended periods of UA, and request for discharge in lieu of trial by court martial, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact it had on the good order and discipline of your unit. The Board also noted that the misconduct that led to your request to be discharged in lieu of trial by court-martial was substantial and determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial; thereby sparing you the stigma of a court-martial conviction and possible punitive discharge. The Board noted you were previously sentenced to a BCD and a second conviction would certainly have resulted in another punitive discharge. 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 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. 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 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,

12/4/2025

