



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

Docket No. 4442-25
Ref: Signature Date

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 17 November 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 U.S. Marine Corps and began a period of active duty on 6 February 1979. On 22 October 1979, you commenced a period of unauthorized absence (UA) that lasted 21 days. This was followed by an additional period of UA beginning on 6 December 1979 and lasting 61 days. A third period of UA began on 29 February 1980 and lasted 130 days. During your third period of UA you were involved in a motor vehicle accident.

On 16 September 1980, after consulting with qualified legal counsel, you voluntarily requested an undesirable discharge, under Other Than Honorable (OTH) conditions, for the good of the service in lieu of trial by court-martial for your periods of UA. The separation authority approved your request and you were so discharged on 10 October 1980.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 your contentions that: (1) your discharge was unjust due to your injuries which included a broken back and head injury to your left side, (2) the Marine Corps sought to separate you because of your physical

condition which prevented you from performing physical labor for at least a year, (3) following your injuries, you were assigned to inactive duty for the remainder of your service, (4) it has been 45 years since your discharge and you are requesting an upgrade to ensure eligibility for your "conformation from April 03 to April 05," and (5) you believe the Marine Corps' decision was based on your inability to fulfill your duties due to your injuries. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, a DD Form 293, and a Department of Veterans Affairs (VA) letter.

After a 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 extensive periods of UA and request to be discharged for the good of the service, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded it showed a complete disregard for military authority and regulations. 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. The Board also noted 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. Further, the Board was not persuaded by your arguments that you were not fit for duty at the time you went UA and determined your medical evidence is temporally remote to your service. Therefore, the Board determined that your discharge was proper and equitable under the standards of law and discipline and that the discharge accurately reflects your conduct during your period of service.

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 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,

12/2/2025

