



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

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Docket No. 7113-25  
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 19 December 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 15 June 2005. Your pre-enlistment physical examination, on 25 March 2005, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms. Your primary MOS was 2111 (Small Arms Repairer).

On 11 January 2006, you received non-judicial punishment (NJP) for: (a) willfully disobeying a lawful order by purchasing alcohol for a minor, and (b) the wrongful communication of a threat. You did not appeal your NJP.

On 5 July 2006, you received NJP for failing to obey a lawful order by violating company ordered curfew. You did not appeal your NJP. On the same day your command issued you a "Page 11" retention warning (Page 11) documenting your NJP. The Page 11 warned you that a failure to take corrective action and any further UCMJ violations may result in judicial or adverse administrative action, including but not limited to administrative separation.

On 11 July 2006, you received NJP for failing to obey a lawful order by having unauthorized visitors in your barracks room while on restriction. You did not appeal your NJP. On the same day, your command issued you a Page 11 documenting your NJP. The Page 11 warned you that a failure to take corrective action and any further UCMJ violations may result in judicial or adverse administrative action, including but not limited to administrative separation.

However, on or about 23 July 2008, you were apprehended by civilian authorities in Virginia ██████████ for: (a) two (2) counts of larceny and one (1) count of conspiracy. Both crimes were charged as felonies. You were arrested after a fellow Marine tried to sell a firearm to an undercover police officer. Parts of the firearm had been stolen from your place of employment at the ██████████ armory. Each of the five (5) consecutive days you spent in civilian custody following your arrest placed you in an unauthorized absence status day-for-day with the Marine Corps.

On 21 August 2008, your command notified you of administrative separation proceedings by reason of misconduct due to the commission of a serious offense. The factual basis for your administrative separation was your arrest and pending civil charges involving the possession of government property, specifically components of government firearms, with the intent to reassemble and distribute. You consulted with counsel and elected your rights to submit statements and to request an administrative separation board (Adsep Board).

On 22 October 2008, an Adsep Board convened in your case. At the Adsep Board you were represented by counsel. Following the presentation of evidence and any witness testimony, the Adsep Board members unanimously determined that the preponderance of the evidence proved all acts/omissions as alleged in your administrative separation notification form. The Adsep Board members subsequently determined that you should be separated with an under Other Than Honorable conditions (OTH) discharge characterization.

On 17 November 2008, the Staff Judge Advocate to the Separation Authority determined that your separation proceedings were legally and factually sufficient. Ultimately, on 16 December 2008, you were separated from the Marine Corps for misconduct with an OTH discharge characterization and were assigned an RE-4 reentry code. Based on information you included in your personal statement accompanying your petition, you were convicted of your civilian offenses on or about 5 May 2009.

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 and reentry code. You contend that: (a) you created few issues for the Marine Corps while on active duty and any issues you caused were minor infractions, (b) you did not allow those minor infractions to impede upon your honorable service history, and you did not allow the infraction leading to your separation to impede upon your honorable service as an employee, husband, father, and friend, (c) you were dedicated to your service in the United States Marine Corps and, since discharge, to your development responsibility and relationships with your peers, and (d) post-service your relationship with your family has been a priority. 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 and contentions 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 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 concluded that your cumulative misconduct was not minor in nature and demonstrated a failure to conform to basic military standards of good order and discipline, all of which further justified your OTH 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 disregard for good order and discipline 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,

1/6/2026

