



[REDACTED]

[REDACTED]

[REDACTED]

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.

The following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

- You enlisted in the Marine Corps and began a period of active duty on 2 February 1972.
- On 15 June 1973, you were granted emergency leave until 4 July 1973. You failed to return from leave and began your first period of unauthorized absence (UA) that terminated on 12 December 1973.
- On 18 December 1973, you commenced another period of UA that terminated on 7 February 1974. On 18 March 1974, charges for these two periods of UA were preferred to a special court-martial.
- On 15 April 1974, you commenced a third period of UA that terminated on 23 April 1974. You received non-judicial punishment for this period of UA on 30 April 1974.

- In the meantime, on 29 April 1974, you submitted a written request for an Other Than Honorable (OTH) discharge in order to avoid trial by court-martial for the initial two periods of UA. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Ultimately, your request was granted, and you were so discharged on 21 May 1974.

In your application to this Board, you express a desire for your discharge character of service be upgraded and contend that:

- When separating from the Marine Corps, you were told your discharge characterization would be General (Under Honorable Conditions). Your service was Honorable up to the event that led to your discharge.

- You are requesting an upgrade due to mitigating circumstances at the time of service. You requested the discharge to return home to take care of your children, as your wife was unable to after she was in a serious accident. Shortly after you returned to Camp Pendleton, your wife said she was going to take the children and you would never see them again, so you left without authority, to take care of the situation. You surrendered to authorities once the situation was stabilized.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately processed for administrative separation based on your record of misconduct. The Board noted you admitted to committing the misconduct that formed the basis of your administrative separation and OTH discharge. While the Board considered your contention that you were told you would receive a General (Under Honorable Conditions) discharge, it noted that your record indicates otherwise. Specifically, in your request to be discharged in lieu of trial by court-martial, you acknowledged, “I understand that my discharge from Naval Service, effected by acceptance of this request, will be an **undesirable discharge** which will be issued without referral or consideration of my case by an administrative separation board.” [Emphasis added]. Therefore, the Board determined the presumption of regularity applies to your OTH discharge and no error exists with your record.

The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your desire for an upgrade to your characterization of service, your contentions, the totality of your service to include service highlights, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, the Board observed you were given an opportunity 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. Further, the Board also considered 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. Therefore, even taking into consideration all the mitigation factors in your case, the Board found that your misconduct while on active duty outweighed the mitigation evidence offered. While the Board acknowledged the personal difficulties you have endured, ultimately, the Board concluded an upgrade of your discharge characterization of service is not warranted in the interests of justice.

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,

4/27/2026

