



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

Docket No. 9024-25
Ref: Signature Date

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 20 March 2026. 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).

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:

1. You enlisted in the U.S. Marine Corps and began a period of active duty service on 26 January 1977. Your pre-enlistment physical examination, 12 January 1977, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms.
2. On 2 June 1977, you received non-judicial punishment (NJP) for unauthorized absence (UA), and for being drunk while in the performance of your duties. You did not appeal your NJP.
3. On 7 September 1977, you received NJP for the wrongful possession of marijuana. You did not appeal your NJP.

4. On 21 July 1978, you received NJP for two (2) separate specifications of misbehavior of a sentinel or lookout when you were sleeping at your post on each occasion. You did not appeal your NJP.

5. On 21 February 1979, you were convicted at a Special Court-Martial (SPCM) of: (a) UA, (b) assaulting a superior commissioned officer, (c) misbehavior of a sentinel or lookout when you were sleeping at your post, (d) larceny from the Marine Corps Exchange, (e) wrongful marijuana possession. The Court sentenced you to confinement at hard labor for four (4) months, forfeitures of pay, a reduction in rank to the lowest enlisted paygrade (E-1), and to be discharged from the Marine Corps with a bad conduct discharge (BCD). On 10 September 1979 the Supervisory Convening Authority approved the SPCM sentence but suspended the BCD for a period of one (1) year.

6. On 6 November 1979, your command issued you a "Page 11" warning. (Page 11), where you acknowledged that further involvement of a discreditable nature with military/civil authorities would result in your being recommended for a discharge under other than honorable conditions (OTH).

7. On 12 February 1980, your command issued you another Page 11 where you acknowledged that you were being placed on probation for reenlistment purposes for six (6) months.

8. On 16 February 1980, you received NJP for UA. You did not appeal your NJP.

9. On 29 April 1980, you received NJP for failing to obey a lawful order. You did not appeal your NJP.

10. On 13 August 1980, you received NJP for UA. You did not appeal your NJP.

11. On 5 September 1980, you received NJP for another UA. You did not appeal your NJP.

12. On 17 September 1980, you received NJP for breaking restriction, and for being absent from you appointed place of duty.

13. On 4 November 1980, you were convicted at a Summary Court-Martial (SCM) of: (a) misbehavior of a sentinel or lookout when you left your post before being properly relieved, (b) two (2) separate specifications of dereliction in the performance of duties, (c) disrespect towards a superior commissioned officer, (d) UA, and (e) willfully disobeying a superior commissioned officer. The SCM Officer sentenced you to confinement at hard labor for 29 days and certain forfeitures of pay.

14. Your separation physical examination on 27 January 1981 noted no psychiatric or neurologic issues, symptoms, history, or counseling.

15. On 12 March 1981, your command notified you of administrative separation proceedings by reason of misconduct due to frequent involvement of a discreditable nature with military

authorities. You waived your rights to consult with counsel, to include written rebuttal statements, and to request an administrative separation board. Ultimately, on 17 April 1981, you were separated from the Marine Corps for misconduct with an OTH discharge characterization and assigned an RE-4 reentry code.

16. On 19 April 1983, the Naval Discharge Review Board denied your initial application for discharge upgrade relief.

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

1. You received a Special Court-Martial, served a six-month brig sentence, and were restored to active duty.
2. You were in trouble again, however, you completed your entire service commitment despite your adjustment problems.

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. While the Board carefully considered your contention of mitigation, the Board noted you did not deny committing the misconduct that formed the basis of your administrative separation and OTH discharge. Therefore, the Board determined the presumption of regularity applies to your administrative separation 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, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, the harshness of your punishment, the evidence you provided in support of your application including a copy of your GED, your advanced age, 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 determined that illegal drug use and/or possession is contrary to military core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Marines. Additionally, the Board noted that your service record was marred by eight (8) separate NJPs and two (2) courts-martial. The Board concluded that your cumulative misconduct was not minor in nature and demonstrated a repeated failure to conform to basic military standards of good order and discipline, all of which continues to justify your OTH characterization. The Board observed you were given multiple opportunities 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. Finally, contrary to your contention, the Board found no evidence you completed your active duty obligation. 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.

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,

3/26/2026

