



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 2220

██████
Docket No. 9130-25
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 6 April 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, 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 Marine Corps and began a period of active duty on 10 September 1990.
2. On 21 March 1991, you received nonjudicial punishment (NJP) for a period of unauthorized absence (UA) from appointed place of duty and unlawfully and willfully consuming alcohol underage. You were counseled concerning substandard conduct due to your UCMJ violations and advised that failure to take corrective action could result in administrative separation.
3. On 23 November 1991, you were arrested by civil authorities and placed in civil confinement. You were accused of possession of cocaine with intent to distribute, possession of a firearm, and aggravated assault. On 30 January 1992, you were released on bail and returned to

military control. On 7 February 1992, you were counseled concerning your previous arrest and charges by civil authorities.

4. On 21 August 1992, you received a second NJP for larceny of a ██████████ license plate from a noncommissioned officer.

5. On 23 February 1993, you were counseled concerning your alcohol related incident, specifically, DUI with BAC of .05. You were advised that failure to take corrective action could result in administrative separation.

6. On 15 September 1993, you received a third NJP for disobeying a lawful order by wrongfully operating a motor vehicle on base while your privileges were suspended.

7. On 4 October 1993, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to minor disciplinary infractions and pattern of misconduct. After you decided to waive your procedural rights, your commanding officer recommended you be discharged with an Other Than Honorable (OTH) discharge characterization of service. Your administrative separation proceedings were determined to be sufficient in law and fact and the separation authority approved the recommendation by reason of misconduct due to pattern of misconduct. On 22 October 1993, you were so discharged.

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

1. You joined the Marine Corps as a young newly married man seeking purpose and stability while supporting a growing family.

2. You suffered the devastating loss of your son at birth, which caused severe emotional and spiritual distress.

3. You began experiencing serious medical issues, including chronic back, knee, and foot problems that limited your physical abilities and affected your sense of identity.

4. Your mental and emotional health declined, and your marriage deteriorated.

5. Despite these hardships, you remained committed to your duties, performed well, and received recognition for your work.

6. You decided to decline a medical discharge at ██████████ because you wanted to continue serving.

7. You made poor decisions but emphasized that they occurred while you were overwhelmed by trauma, physical pain, and inexperience.

8. Post discharge, you have struggled with ongoing medical conditions and difficulty maintaining stable employment, often relying on physically demanding labor despite your limitations.

9. You are seeking an upgrade so that you may have access to medical care and financial support through the Department of Veterans Affairs (VA).

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 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 to include service highlights, your need for veterans' benefits, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your claimed mental health issues, the evidence you provided in support of your application, 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 found that your conduct showed a complete disregard for military authority and regulations. 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. 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. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Even though the Board considered your possible need for benefits to address your health concerns, they determined the severity of your misconduct outweighed any mitigation resulting from that factor. 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 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,

4/21/2026

