



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

██████████
Docket No. 10749-25
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 you did not file your application 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 16 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).¹

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 11 September 1978. After a period of continuous Honorable service, you immediately reenlisted and commenced a second period of active duty on 28 May 1981.
2. At the time of your reenlistment, you were issued a Certificate of Release or Discharge from Active Duty (DD Form 214) that erroneously annotated your separation date as 10 September 1981. This error was corrected by a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty (DD Form 215) that changed box 12.b. to 27 May 1981.²

¹ The Board noted you checked the "Sexual Assault/Harassment" box on your application but only referenced an assault on your spouse. Therefore, the Board did not consider your application under the guidance provided in the Kurta and Hagel memos.

² The DD Form 215 was issued on 2 June 1982 and is located in your record.

3. On 23 August 1982, you received nonjudicial punishment (NJP) for violation of Uniform Code of Military Justice (UCMJ) Article 92 (wrongfully violate a lawful general regulation by wrongfully using marijuana). You were awarded punishment of forfeiture of \$150 pay per month for one month and reduction in rank to E-4.

4. In September 1982, you were notified that administrative separation proceedings had been initiated against you on the basis of misconduct due to drug abuse. You acknowledged your rights and elected to appear before an administrative discharge board (ADB).

5. On 29 October 1982, an ADB unanimously found misconduct and recommended that you be discharged with an Other Than Honorable (OTH) characterization of service.

6. Ultimately, the ADB recommendation was approved by the separation authority. On 19 November 1982, you were so discharged from the Marine Corps and assigned a reentry code of RE-4.

In your application to the Board, you claim the date of your reenlistment is incorrect and request an upgrade to your OTH discharge. You contend that:

1. There was a sexual assault on your wife in ██████████. After that incident, your no longer wanted to be a Marine.

2. The enlistment and separation dates are wrong for your reenlistment.

3. Some years after reenlistment, it all came about after your wife at 16 was sexually assaulted on base.

4. You did not know how to handle it and intentionally failed a drug test to get out.

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

With regard to your request for a change to the date of your reenlistment, as discussed previously, you were issued a DD Form 215 that corrected the erroneous release from active duty date from your initial DD Form 214. Once the DD Form 215 was issued, the Board found the dates corresponded with your service record and reenlistment contract. Accordingly, the Board determined that no error exists with your separation date from your first enlistment period or reenlistment date.

Regarding your request for a discharge characterization upgrade, the Board initially concluded you were appropriately processed for administrative separation based on your record of misconduct. The Board noted you admit to committing the misconduct that formed the basis for 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 contentions, the personal circumstances surrounding your misconduct, the totality of your service, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your candor, 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 found that your conduct showed a complete disregard for military authority and regulations. The Board also considered that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. 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, the Board believed that it would be unjust to characterize your less than honorable service in the same manner as the service of the thousands of service members who, unlike you, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service.³ While the Board acknowledged the personal difficulties you 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,

4/2/2026

Executive Director

Signed by:

³ It was noted by the Board that your service record documents a period of Honorable service from your initial enlistment, which historically confers eligibility for Department of Veterans Affairs (VA) benefits. However, eligibility for VA benefits falls exclusively under the cognizance of the VA. Therefore, the Board recommends you contact your nearest VA office.