



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

██████████
Docket No. 11317-25
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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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 1 August 1978.
2. On 2 July 1979, you began a period of unauthorized absence (UA) and remained absent until your return to military control on 13 December 1979.
3. On 5 March 1980, you again went UA and remained absent until 29 April 1980.
4. On 6 June 1980, you were found guilty at a special court-martial (SPCM) of violating

two specifications of Article 86 of the Uniform Code of Military Justice for the two periods of UA from 2 July 1979 to 5 December 1979, and from 5 March 1980 to 30 April 1980. You were sentenced to confinement at hard labor for four months, forfeiture of \$150 pay per month for four months, and reduction in rank to E-1.

5. On 22 September 1980, after being released from confinement, you went UA and returned on 7 December 1980.

6. On 21 January 1981, you requested an administrative discharge with in lieu of trial by court-martial.

7. On 30 January 1981, the Staff Judge Advocate reviewed your request for discharge under Other than Honorable conditions to avoid court martial and found the proceedings to be correct in law and fact.

8. In the meantime, on 3 February 1981, you again went UA and remained absent until 5 April 1981. You were returned to military control by apprehension on 9 April 1981.

9. Your request to be discharged in lieu of trial by court-martial was approved and you were discharged from the Marine Corps, on 30 April 1981, with an under Other Than Honorable (OTH) conditions characterization of service and a reentry code of RE-4.

In your application for correction, you request that the Board upgrade your characterization of service to a minimum of General (Under Honorable Conditions). You contend that:

1. You nearly completed your initial enlistment honorably.
2. Your infractions were minor and there was insufficient probable cause to take you to nonjudicial punishment or for the convening of a court martial.
3. You were threatened with court-martial proceedings if you did not accept the administrative separation.
4. As a young Marine, you were scared and had minimal legal advice to make a sound decision, so you signed.
5. Leadership told you that you would have access to full veterans' benefits but you were not counseled on how to obtain such benefits.

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 and request to be separated in lieu of trial by court-martial. While the Board carefully considered your contentions regarding lack of representation and coercion, the Board noted you provided no evidence, other than your statement, to substantiate your claims. Thus, 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, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, 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 disagreed with your assertion that your misconduct was minor and superficial. In particular, contrary to your contention, the Board noted that you were convicted by a SPCM for your misconduct before you later requested administrative separation due to another pending SPCM. The Board found that the length and frequency of your UAs reflected serious misconduct that negatively impacted the good order and discipline of your command. Further, the Board found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunity to correct your conduct deficiencies when you were returned to duty after your special court martial conviction, but rather than taking corrective action, you again embarked on a period of prolonged UA. The Board found that your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect 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. In addition, 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, completed their enlistments without engaging in misconduct warranting the early curtailment of their service. 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

