



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No: 00061-21
11170-19
Ref: Signature Date

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Dear █

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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 29 January 2021. 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 Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to upgrade your discharge and contention that you are an upstanding citizen in society, have been employed as an investigator for nearly five years, and graduated from the police academy. You also contend that you were found not guilty, did not go through a trial, and made a plea agreement in exchange for a reduced sentence. Finally, you contend that everyone was unprepared and unqualified to prepare your administrative paperwork upon your release because your case was unusual, unlike any other.

With regard to your contentions concerning your General Court-Martial (GCM), the Board noted the record clearly shows that on 24 September 1996, you were found guilty and were convicted by a GCM. Therefore, the GCM conviction in your record is appropriate. With regard to your contention that no one was prepared or qualified to prepare your administrative paperwork, the Board advises that it relies on a presumption of regularity and absent evidence to the contrary, as in the case here, presumes that the officials acted in accordance with governing law/policy and in good faith. Finally, the Board commends your post service conduct, but noted that it does not outweigh your conduct while enlisted in the Marine Corps or the basis for your discharge. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your GCM conviction, outweighed these mitigating factors. 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,

■ 3/15/2021

Executive Director