



**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: 1492-21  
Ref: Signature Date



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 the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 2 August 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 Kurta Memo, the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). In addition, the Board considered the advisory opinion (AO) furnished by a qualified mental health professional dated 24 March 2021, which was previously provided to you.

You enlisted in the Marine Corps and began a period of active duty on 13 November 1995. On 14 August 1996, you were counseled concerning not being at your appointed place of duty at the appropriate time. You were warned that further deficiencies in your performance and/or misconduct could result in administrative discharge action. On 4 October 1996, you received nonjudicial punishment (NJP) for a brief period of unauthorized absence (UA), and disobeying a lawful order. On 2 November 1996, you began a period of UA that lasted 32 days, ending on 4 December 1996. On 18 February 1997, you were convicted by a Special Court-Martial (SPCM) of 32 days of UA, violation of a lawful general regulation, by wrongfully wearing an earring in civilian attire, and wrongful use of marijuana. You were sentenced to a period of confinement, a forfeiture of pay, and a bad conduct discharge (BCD). You were discharged from the service on 29 April 1998 with a BCD.

A qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO regarding your assertion that you were suffering from a mental health condition during your service. The AO noted that based on the available evidence, the preponderance of objective evidence failed to establish you were diagnosed with a mental health condition, suffered from a mental health condition at the time of your military service, or your in-service misconduct could be attributed to a health condition.

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 assertions that: (a) during your time in the Marine Corps, you were, very young and naive, did not know that your actions would impact your future, and you should not have done what you did; (b) you served in the Marine Corps honorably; and (c) you are older and wiser, and you believe that it would be in good faith to change your characterization of service due to the time that has passed. 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 NJP, SPCM conviction, and fact that you were warned of the consequences of further misconduct before your first NJP outweighed these mitigating factors. Additionally, the Board concurred with the AO that based on the available evidence, the preponderance of objective evidence failed to establish you were diagnosed with a health condition, suffered from a mental health condition at the time of your military service, or your in-service misconduct could be attributed to a mental health condition. 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,

8/10/2021

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Executive Director

Signed by: █