



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

█
Docket No: 3486-21
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 20 December 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).

You enlisted in the U.S. Marine Corps and began a period of active duty on 23 August 1989. Subsequently, you reenlisted twice resulting in two periods of honorable service. Your last enlistment commenced on 20 May 1998. On 27 September 1999, you received your first nonjudicial punishment (NJP) for being absent from your appointed place of duty. This was followed a few months later by a period of unauthorized absence from 26 April 2000 until you were apprehended 62 days later on 27 June 2000. On 30 June 2000, you were convicted at a General Court-Martial (GCM) for carnal knowledge with a child under the age of 12 on divers occasions between 15 April 1998 and 27 June 1998, and for committing an indecent act upon the body of a female under 16 years of age, on divers occasions between 15 April 1998 and 27 June 1998. You were sentenced to confinement for nine (9) years, reduction in rank to E-1, and to be discharged with a bad conduct discharge (BCD) characterization of service. On 23 March 2001, the Convening Authority approved your sentence with the exception of your BCD.

On 12 October 2000, you were convicted at a Special Court-Martial (SPCM) for your aforementioned 62 days of UA and sentenced to confinement at hard labor for 60 days. On 9 July 2001, the Convening Authority approved your sentence. On 18 May 2005, the US. Navy-Marine Corps Court of Criminal Appeals affirmed the sentence you received at a GCM. Subsequently, you were discharged with a BCD. On 15 November 2006, the Naval Clemency and Parole Board approved your request for a holiday release.

You contend: (1) the Veterans Administration (VA) does not recognize your previous periods of honorable service as they were not separated on your Certificate of Release or Discharge from Active Duty (DD 214s); (2) your name should be corrected to reflect "█" vice "█"; (3) your Primary Military Occupational Specialty (PMOS) should be corrected to reflect "6332 – Aircraft Electrical Systems Technician" vice "6335 – Aircraft Electrical Systems Technician, AV-8;" (4) you would like your previous honorable service to be considered when evaluating your petition; and (5) since your discharge you have been a productive member of society who has been able to maintain a continual relationship with your family allowing you to be a positive influence in the lives of your children and grandchildren.

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 contentions noted above, and desire to upgrade your discharge. Additionally, the Board noted you did not submit evidentiary documents, advocacy letters, or post-service documents to be considered for your request as well as for clemency purposes. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your service record has over ten entries documenting your PMOS as "6335." The Board also concluded your misconduct, as evidenced by your GCM and SPCM, 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 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,

1/13/2022

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Executive Director

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