



**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: 3810-21  
Ref: Signature Date



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 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 15 September 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 Marine Corps and began a period of active duty on 20 October 1997. You subsequently completed three enlistment in the Marine Corps with an honorable character of service. On 16 October 2010, you reenlisted into the Marine Corps. During this enlistment you were convicted by general court-martial (GCM) of wrongfully transport in interstate or foreign commerce, a machinegun, without possessing a license in violation of U.S.C. § 922 (a) (4) and in order to effect the object of the conspiracy give an individual 15 to 20 machine guns to transport, which conduct was of a nature to bring discredit upon the armed forces or was prejudicial to good order and discipline in the armed forces; wrongfully possess a machinegun in violation of 18 U.S.C. § 922 (o) (1), which conduct was of a nature to bring discredit upon the armed forces or was prejudicial to good order and discipline in the armed forces; steal nine ballistic trauma plate inserts, military property, the property of the United States Government; and steal a Thermal Monocular Device, military property, the property of the United States Government. As punishment, you were awarded confinement, reduction in rank, and a bad

conduct discharge (BCD). After the BCD was approved at all levels of review, you were discharged on 2 July 2012.

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 to have the remarks "Continuous Active Honorable Service: 19971020-20101015" listed in Block 18 of your Certificate of Release or Discharge from Active Duty (DD Form 214) be amended to a DD Form 215. The Board also considered your assertion that you desire to have your record corrected so you can proudly claim the years of service you earned for your family and future.

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 a GCM conviction and subsequent BCD, outweighed these mitigating factors. In regard to your request to amend your DD Form 214, applicable regulations authorize the language "Continuous Honorable Active Service" in Block 18 of the DD Form 214, when a service member has previously reenlisted without being issued a DD Form 214, and was separated with a discharge characterization except "Honorable," as is the case at present. 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,

9/29/2021

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Signed by █