



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

█
Docket No: 4043-21
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 8 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).

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.

You enlisted in the Marine Corps and began a period of active service on 25 June 2007. You reenlisted on several occasions, and on 20 April 2019, you were counseled regarding your alcohol related misconduct. On 4 June 2019, you received non-judicial punishment (NJP) for failure to obey a lawful order due to being involved in a motor vehicle accident and being cited for driving under the influence of alcohol. At which point, you were taken into civilian custody. On 5 June 2019, you were counseled regarding receipt of NJP on 4 June 2019, which notes you were apprehended by local authorities for DUI with a blood alcohol content of 0.19%. Your USMC Fitness report (NAVMC 10835), dated 17 July 2019, notes you pled guilty at NJP

following your civil arrest for DUI. Additionally, you provide comments in the addendum page of your NAVMC 10835 in which you express regret in your judgement that led to making a mistake. On 1 May 2020, your request for reenlistment was disapproved. Consequently, on 24 June 2020, you were discharged with an honorable character of service upon the completion of your required active service, and you were assigned an RE-4 reentry code.

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 change your reenlistment code from RE-4 to RE-1A, and removal of an NJP entry in your record, as well as our contentions that you would like the ability to continue service in the Marine Corps, you did not receive a DUI with civil authorities, and no command investigation was completed regarding your alcohol related misconduct. The record reflects that you pled guilty at NJP on 4 June 2019, and you provided statements, which the Board surmised as an admission to violation of the Uniformed Code of Military Justice (UCMJ). Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found no error or injustice in your record, and determined based on the record you were issued the appropriate reentry code. 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,

1/19/2022

[REDACTED]
Executive Director
[REDACTED]