

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

> Docket No: 5047-21 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 threemember panel of the Board, sitting in executive session, considered your application on 13 October 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 duty on 25 August 1992. On 12 November 1993, you were issued an Administrative Remarks (Page 11) counseling concerning deficiencies in your performance and conduct, specifically, knowingly obtaining a false identification card. On 18 October 1994, you were medically evaluated by the Substance Abuse Control Officer (SACO) concerning your alcohol dependence. The SACO subsequently recommended you for Level III treatment. On 28 October 1994, you were issued a Page 11 counseling concerning deficiencies in your performance and conduct, specifically, failure to return from leave as scheduled. On 15 November 1994, you were convicted by civilian

authorities of driving under the influence. On 2 February 1995, you received non-judicial punishment (NJP) for unauthorized absence totaling 28 days. On 3 March 1995, you were issued a Page 11 counseling concerning deficiencies in your performance and conduct, specifically, failure to maintain military weight standards. On 29 March 1995, you were admitted for Level III treatment to the Naval Addictions Rehabilitation and Education Department, Naval Hospital with a diagnosis of alcohol dependence. On 10 April 1995, you requested to be discharged from the program, and subsequently you were discharged as a Level III refusal and recommended for administrative separation. On 5 June 1995, you were issued a Page 11 counseling concerning your failure to complete the Level III substance abuse program: demonstrating poor judgement, attitude, and ability to follow instructions.

On 8 August 1995, you were notified that you were being recommended for administrative discharge from the Marine Corps. You were advised of, and waived, your procedural rights, to include, your right to consult with and be represented by military counsel, and your right to present your case to an administrative discharge board (ADB). Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending administrative discharge from the Marine Corps with a general (under honorable conditions) characterization of service. The SA approved the CO's recommendation and directed your general (under honorable conditions) characterization of service discharge from the Marine Corps by reason of alcohol abuse rehabilitation failure. On 5 October 1995, you were so discharged.

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 character of service. The Board also considered your assertions that: (a) you regret your failure at the in-patient detox at **service**; (b) since your discharge, you have faithfully and diligently served as a police officer for 21 years for the City of **service**; (c) you have vowed to yourself and others that your services would reflect the highest levels of esteem and distinction; and (d) you are a member of the USMC league sponsored by the **service** Police Department.

The Board noted you did not submit any documentation or advocacy letters in support of your application to be considered for clemency consideration. 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 an NJP, civilian conviction, and your inability to comply with the requirements of the alcohol rehabilitation program. 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,

