



**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: 5310-21  
Ref: Signature Date



Dear █:

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 13 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 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 October 2021, which was previously provided to you.

You enlisted in the Marine Corps and began a period of active duty on 16 October 1996. On 6 and 27 March 1997, you received nonjudicial punishment (NJP) for sleeping on post and four specifications of failing to go to the prescribed time for restricted muster. Additionally, you were counseled after each NJP and warned that further misconduct could result in administrative discharge action. During the period from 2 October 1997 to 16 September 1998, you were counseled concerning your unsatisfactory performance of duties by not maintaining Marine Corps weight standards. Further, you were counseled regarding unsatisfactory appearance as a Marine, two instances of unsatisfactory progress while on a Weight Control Program by failing to meet weight reduction goal, unauthorized absence from appointed place of duty, and illegal drug involvement. On 15 October 1998, you were convicted by summary court-martial (SCM)

of wrongful use of marijuana. On 5 November 1998, the separation authority directed that you receive an other than honorable (OTH) discharge for misconduct. On 6 November 1998, you were discharged from the Marine Corps with an OTH characterization of service for misconduct due to drug abuse. Your original service record was incomplete and did not contain all the documentation pertaining to your separation from the Marine Corps. Absent such evidence, the Board relied upon the presumption of regularity and presumed that the officials acted in accordance with governing law/policy and in good faith.

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 suffered from a mental health condition at the time of your military service, or that your in-service misconduct could be attributed to a mental 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) you failed a urinalysis for marijuana use due to self-treatment of an undiagnosed mental health disorder; (b) you completed two years flawlessly, and were well on the way to a long career in the Marine Corps; (c) you admitted you made a mistake but it was not habitual, and others committed the same error, but were allowed to remain in the military; (d) you feel an injustice has been done and your one mistake has followed you throughout your life; (e) you are receiving treatment for your depression and anxiety; and (f) you feel that leadership could have assisted you by providing access to the proper mental health professionals, but due to the stigma that is attached to such a request, you remained silent for fear of reprisal, and this directly caused the termination of what was planned to be a lifelong career for you. 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 two NJPs, SCM conviction, and the fact that you were warned of the consequences of further misconduct on more than one occasion outweighed these mitigating factors. The Board also concurred with the AO that based on the available evidence, the preponderance of objective evidence failed to establish you suffered from a mental health condition at the time of your military service, or that 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,

12/20/2021

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Executive Director

Signed by: █