



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

█  
Docket No: 5769-21

Ref: Signature Date

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Dear Mr. █

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 18 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, 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).

After an honorable period of service, you reenlisted in the Marine Corps and began a second period of active duty on 19 December 1985. On 24 March 1986, you were counseled for dismissal from the NCO School due to unauthorized absence (UA). On 29 May 1986, you received nonjudicial punishment (NJP) for being absent from your appointed place of duty. On 20 August 1986, you received an additional NJP for DWI while on base. On 19 December 1986, you were counseled for being convicted of driving while intoxicated. You were advised that failure to take corrective action could result in administrative separation. On 10 July 1988, you were apprehended by civil authorities and charged with possession of an illegal weapon. You were sentenced to a \$50.00 fine and one year in probation. On 25 July 1988, you were counseled for deficiencies in conduct. You were advised that failure to take corrective action could result in administrative separation. On 16 August 1988, you received an additional NJP for wrongful use of a controlled substance. On 25 August 1988, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct, at

[REDACTED]

which point, you elected to waive all your procedural rights. On 30 August 1988, your commanding officer recommended an other than honorable (OTH) discharge characterization of service by reason of misconduct due to pattern of misconduct. On 27 October 1988, your discharge proceedings were determined to be sufficient in law and fact. On 28 October 1988, the discharge approval authority approved and ordered an OTH discharge by reason of pattern of misconduct. On 28 November 1988, you were 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 contention that receiving a dishonorable discharge for a single drug related incident was too harsh after being able to complete a previous period of service. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your repeated misconduct, as evidenced by your NJPs, outweighed these mitigating factors. The Board noted you did submit a VA Statement in Support of Claim to be considered. The Board believes that you may be eligible for veterans' benefits that accrued during your first period of service. Whether or not you are eligible for benefits based on either period of service is a matter under the cognizance of the Department of Veterans Affairs (DVA). If you have been denied benefits, you should appeal that denial under procedures established by the DVA. 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,

11/3/2021

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Executive Director

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