



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: 6421-21

Ref: Signature Date



Dear Petitioner:

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.

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 November 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 commenced a period of active duty on 3 November 1998. On 26 January 1999, you received a formal written warning concerning your failure to report to muster. On 11 June 2001, you received a formal written warning regarding driving at over 100 miles per hour in a 45 miles per hour zone, and three traffic citations you had pending. On 25 December 2001, you were involved in an altercation at a civilian store in which a woman called the police alleging that you pushed her to the ground. On 20 August 2002, you received nonjudicial punishment for destroying property at a civilian store, using marijuana, assault, and disorderly conduct. On 21 August 2002, you were notified of the initiation of administrative separation processing and your rights in connection therewith. You waived your right to an administrative board. In October 2002, your chain of command recommended that you be discharged due to misconduct, by reason of drug abuse, with an other than honorable characterization of service. On 1 November 2002, the discharge authority directed that you be

discharged with an other than honorable characterization of service, and that day you were so discharged.

The Board carefully considered all potentially mitigating to determine whether the interests of justice warrant relief in your case including in accordance with the Wilkie Memo. In your petition, you apologized for the actions that led to your separation, and you stated that you had been a rising star in the Marine Corps prior to your misconduct, and that you completed numerous courses and obtained several certifications while in the Marine Corps. You contend that your other than honorable discharge has stigmatized you in the civilian sector. You also contend that you have learned from the mistakes of your youth and you have sought to grow as an individual, earning a pharmacy technician certification from the [REDACTED]

Based upon its review, the Board concluded the potentially mitigating factors that you raised were insufficient to warrant relief. After careful review of your contentions, the Board commended you on taking responsibility for the misconduct that led to your discharge and acknowledged your apology. The Board also noted your post-service activities, including that you have become a productive member of society and obtained the pharmacy technician certification. However, the Board found that your misconduct, which included punishment for using an illegal drug, as well as for assault and for destroying property, as evidenced by your nonjudicial punishment, outweighed the mitigating factors that you submitted. The Board did not believe that you provided sufficient evidence to warrant post-service clemency under the Wilkie Memo. Given the totality of the circumstances, and in light of your serious misconduct, 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,

11/29/2021

[REDACTED]
Executive Director
[REDACTED]