



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

■  
Docket No: 6466-21  
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 27 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).

You enlisted in the Marine Corps and began a period of active duty on 7 April 1998. During the period from 28 May 1999 to 6 June 2000, you received three instances of non-judicial punishment (NJP). Your offenses were: unauthorized absence, underage drinking, false official statement, failure to go to your appointed place of duty on two occasions, insubordinate conduct, sleeping on post on two occasions, and making/uttering a check in the amount of \$200/failure to maintain sufficient funds. On 26 June 2001, you were convicted by special court-martial (SPCM) of an unauthorized absence for the period from 22 April 2001 to 15 May 2001 and disrespect in language toward a noncommissioned officer. As punishment you were awarded confinement, forfeiture of pay, reduction in rank, and a bad conduct discharge (BCD). After the BCD was approved at all levels of review, you were discharged on 6 May 2003.

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 and submission of supporting documentation. The Board also considered your assertion that you understand that you had a bad service record and were not the best Marine; however, you feel that you should not have received a court-martial, since you were eight months from completing active duty. You further state that you have learned and grown since then.

Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by three NJPs and SPCM conviction and subsequent BCD, outweighed these mitigating factors. 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,

11/10/2021

█

Executive Director

Signed by █