



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: 7919-21
Ref: Signature Date

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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 11 February 2022. 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 service on 21 October 1998. On 25 August 1999, you were counseled regarding your insubordination and disobedience. You received non-judicial punishment (NJP) on 1 September 1999 and 3 December 1999 for two specifications of unauthorized absence (UA) totaling 4 hours and 45 minutes. On 27 September 2000, you were counseled regarding UA. On 5 August 2001, you were convicted at a special court martial (SPCM) for UA from 18 April 2001 to 11 May 2001, and missing movement. You were sentenced to confinement, reduction in rank, and a bad conduct discharge (BCD). You were discharged on 19 December 2002 with a BCD, as a result of your court martial conviction.

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 characterization of service to general. In your application you express regret for your actions, and contend you went on UA after finding your girlfriend was sexually assaulted. You contend that you have made positive

changes in your life to include community service. Your application did not include evidence to support your contentions, nor was there supporting evidence in your naval records. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, your repeated misconduct which lead to two counseling warnings, two NJPs, and a SPCM conviction. 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,

3/3/2022

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Executive Director

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