



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

█  
Docket No: 0175-22  
Ref: Signature Date

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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 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 7 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the U.S. Marine Corps and began a period of active duty on 24 September 1996. You subsequently reenlisted on 28 January 2001. On 30 July 2004, you were counseled concerning your deficiencies as a direct supervisor by failing to follow clearing procedures resulting in missing/unaccounted for ammunition. On 12 January 2005, you received your first nonjudicial punishment (NJP) of this enlistment for dereliction of duty by failing to report the consumption of an alcoholic beverage by a female dependent under the legal age of 21 and were reduced in rank to E-4. On 18 January 2005, you were counseled for a pattern of misconduct (POM) for your previous discrepancies. You opted to submit a statement on your behalf and

appealed of your NJP as disproportionate punishment. In your appeal, you stated you were the Military Police Watch Commander and observed a few Marines with a civilian woman who were highly intoxicated. As they were not breaking the law, you decided to give them a courtesy ride to their assigned quarters. You acknowledged that you failed to report the crime of underage drinking. In your Commanding Officer's unfavorable endorsement of your appeal, he documented your actions were in contravention of the training and instruction you received relating to the detention and reporting of intoxicated individuals. On 26 January 2005, a staff judge advocate determined the punishment imposed by your CO was within the limits prescribed and found it to be just and proportionate. Consequently, your appeal was denied.

On 26 May 2005, administrative remarks in your official military personnel file (OMPF) captures you were to receive a RE-4 reentry code for failing to demonstrate the high standards or leadership, professional competence, and personal behavior required to maintain the prestigious quality standards of the Marine Corps. You later received two additional counseling entries stating you were eligible but not recommended for promotion to E-5. On 28 March 2006, at the completion of your required active service, you were discharged with an honorable (HON) characterization of service and issued an RE-4 reentry code disqualifying you from reenlisting.

In your application you contended you served for 9.6 years and would like your reentry code changed in hopes of reenlisting. You also contended you believe your punishment were respected by your peers and subordinates, you believe the judgment you received was unjust as you served your country with honor and in turn were issued a reentry code which does not reflect an honorable disposition.

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 contentions supporting relief. The Board noted you did not submit post-service accomplishments or advocacy letters for clemency consideration. 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 NJP, outweighed these mitigating factors. In the Board's opinion, your record of misconduct and counseling leading up to your release from active duty supports the reentry code assigned. While the Board noted that the majority of your last enlistment was served without incident, they determined you showed a negative trend of performance leading to your discharge that supports the decision to assign you a RE-4 reentry code. Therefore, based on the evidence presented, the Board did not find your arguments for mitigation persuasive. 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,

2/22/2022

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Executive Director  
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