



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

Docket No: 0803-22

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 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 28 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, 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 9 June 1988. On 21 February 1989, you began a period of unauthorized absence (UA) which lasted one day, 4 hours, and 15 minutes. On 15 May 1989, you received nonjudicial punishment (NJP) for a period of UA. On 30 November 1989, you received a second NJP for being absent from your appointed place of duty. On 29 December 1989, you began a period of UA which lasted five days, 10 hours, and 30 minutes. On 22 January 1990, you received a third NJP for a period of UA. On 6 February 1990, you received a fourth NJP for breaking restrictions. On 1 June 1990, you were counseled for driving while intoxicated with a .08 blood alcohol content. You were advised that failure to take corrective action could result in administrative separation. On 4 June 1990, you received a fifth NJP for breaking restriction and for being absent from your appointed place of duty. On 9 August 1990, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct, at which point, you elected to waive all your procedural rights. On the same date, your commanding officer recommended an

other than honorable (OTH) discharged characterization of service by reason of misconduct due to pattern of misconduct. On 11 September 1990, your administrative separation proceedings were determined to be sufficient in law and fact. On 6 October 1990, the discharge approval authority approved and ordered an OTH discharge characterization of service by reason of misconduct due to pattern of misconduct. On 12 October 1990, 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 you were young, immature, and incapable of understanding the repercussions of your mistakes. You also contend that you are now able to realize the importance of an honorable discharge characterization of service and that you still feel ashamed as a result of your discharge from 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 multiple NJPs, outweighed these mitigating factors. In making this finding, the Board weighed your relatively brief period of active duty against your five NJPs. In the Board's opinion, your pattern of behavior was a significant departure from conduct expected of a Marine and appears to show little to no regard for military authority or regulations. As a result, the Board concluded it continues to merit an OTH characterization despite your arguments for mitigation. The Board also noted you did not submit any documentation or advocacy letters to be considered. 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,

3/21/2022

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Executive Director
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