



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

█  
Docket No: 1144-22  
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 March 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 14 March 1988. On 26 May 1988, you were identified as a fraudulent enlistee due to pre-service Police records, at which point, you were granted a waiver by your commanding officer (CO). On 19 April 1989, you were counseled for frequent periods of unauthorized absence, failure to obey orders, lack of bearing, and excessive use of alcohol. You were advised that failure to take corrective action could result in administrative separation. On 1 March 1990, you received nonjudicial punishment (NJP) for being disrespectful in language towards a corporal. On the same date, your NJP sentence was vacated. On 12 April 1990, you received a second NJP for failure to report to your prescribed place of duty and failure to obey an order by failing to wear your seatbelt. On the same date, you were counseled for frequent involvement and pattern of misconduct. You were advised that failure to take corrective action could result in administrative separation. On 10 August 1990, you deployed to █ in support of █ and █. On 7 August 1991, you received a third NJP for use of a controlled substance-marijuana.

On 16 October 1991, you were counseled for illegal drug involvement. You were assigned to USP, and counseled by a substance abuse counselor. You were also advised that failure to take corrective action could result in administrative separation. On the same date, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct and drug abuse. On 18 October 1991, you elected to waive all your procedural rights. On 22 October 1991, your CO recommended an other than honorable (OTH) discharge characterization of service by reason of misconduct due to pattern of misconduct and drug abuse. On 1 November 1991, your administrative separation proceedings were determined to be sufficient in law and fact. On 4 November 1991, the discharge authority approved and ordered and OTH discharge characterization of service by reason of misconduct due to drug abuse. On 5 December 1991, 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 served during the █ conflict and that you are currently homeless and seeking a discharge upgrade. 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 NJPs, outweighed these mitigating factors. In making this finding, the Board concluded that your conduct was a significant departure from that expected from a Marine. 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,

3/23/2022

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Executive Director  
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