



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

█  
Docket No: 2107-22  
Ref: Signature Date

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Dear █

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 1 April 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 5 May 2003. On 8 December 2005, you were convicted at a general court martial (GCM) for maiming, making a false statement to deceive, and wrongfully and recklessly engaging in conduct likely to cause death and bodily harm. You were sentenced to confinement, forfeiture in pay, and a bad conduct discharge (BCD). 25 February 2008, the final appellate review affirmed and directed the execution of your bad conduct discharge (BCD). You were discharged on 27 January 2009 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. You contend your punishment was too severe for the crime you committed and that you have been an exemplary citizen since your discharge. The Board reviewed all the evidence you submitted with your application to be considered for clemency consideration. However, the Board found

the evidence you submitted insufficient to outweigh your misconduct. The Board concluded your BCD was appropriate based on the severe misconduct you committed. In making this finding, the Board considered the nature of your misconduct, the negative impact it had on your victim, and the prejudicial effect it had on your unit's good order and discipline. 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,

4/28/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]