



**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: 2409-22

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 25 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, 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 service 1 May 1989. On 3 January 1990, you were convicted by summary court martial (SCM) for sleeping on post. You were sentenced to reduction to the rank of E-1, and forfeiture of pay. On 14 March 1990, you were convicted by special court martial (SPCM) for making false statement and sleeping while on post. You were sentenced to confinement and forfeiture of pay. On 16 March 1990, you were counseled for pattern of misconduct. You were advised that failure to take corrective action could result in administrative separation. On 8 January 1991, you received nonjudicial punishment (NJP) for failure to report to your prescribed place of duty. On 10 October 1991, you received a second NJP for stealing a fellow Marine's personal checks, forging personal checks, and two instances of cashing personal checks without funds in the amount of \$50.00 and \$40.00. As a result, on 23 June 1992, you were notified of administrative separation processing for pattern of misconduct and elected to waive all your procedural rights. Your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due

to pattern of misconduct and, on 12 August 1992, your administrative separation proceedings were determined to be sufficient in law and fact. On 17 August 1992, the discharge authority approved and ordered an OTH discharge characterization of service by reason of misconduct due to pattern of misconduct. On 14 September 1992, 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 not aware that minor infractions could destroy your military career, that your discharge was unjust since it was based on minor offenses, and that you would like an upgrade to your characterization of service to receive benefits. The Board noted you did not submit any documentation or advocacy letters to be considered for clemency purposes.

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 NJPs, SCM, and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and determined it showed a complete disregard for military authority and regulations. Further, the Board noted your misconduct were not minor infractions as claimed. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Marine and continues to warrant an OTH characterization. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. 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,

5/14/2022

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Executive Director  
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