



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

█  
Docket No: 2625-22  
Ref: Signature Date

█  
█  
█  
Dear Petitioner:

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 3 June 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 27 June 2000. On 5 November 2002, you received non-judicial punishment (NJP) for wrongful consumption of alcohol under the age of 21. You were notified, on 15 January 2003, that you would not be recommended for promotion due to your NJP dated 5 November 2002. On 26 September 2003, you were counseled regarding your drug involvement and mandatory initiation of administrative separation proceedings. On 1 October 2003, you received your second NJP for wrongful use of marijuana. As a result, on 30 October 2003, you were notified of the initiation of administrative separation proceedings as a result of misconduct due to drug use. On 14 November 2003, you elected your right to consult with counsel and review of your case by an administrative discharge board (ADB). On 21 November 2003, your commanding officer recommended your separation with an Other Than Honorable (OTH) character of service, by reason of misconduct due to drug use. On 19 December 2003, an ADB convened, and recommended your separation from the USMC by reason of misconduct due to drug abuse. The ADB recommended your separation with a General (Under Honorable Conditions) character of service. On 11 February 2004, the

discharge authority concurred with the ADB's recommendation. On 17 February 2004, you were so 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 desire to upgrade your characterization of service so that you are able to receive veteran's benefits. You also contend you were immature, and since your discharge you have worked hard to provide for your family with the Marine core values you were thought. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

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, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. Additionally, the Board considered the likely negative impact your drug use had on the good order and discipline of your unit. Further, even though the Board considered your statement of post-discharge good character, it noted that you failed to provide supporting evidence to substantiate it. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating Department of Veterans Affairs benefits, or enhancing educational or employment opportunities. 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 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,

6/27/2022

█  
Executive Director

Signed by █