



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: 3060-22
10654-16
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 18 May 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 duty on 25 April 1988. On 5 February 1991, you were convicted by a special court-martial (SPCM) of three specifications of failure to go at the time prescribed to your appointed place of duty and wrongful use of methamphetamines. As punishment you were sentenced to confinement, forfeiture of pay and reduction in rank. On 24 September 1991, you received non-judicial (NJP) for willfully disobeying an order, to wit: failing to report for urinalysis as directed.

On 19 December 1991, you were notified that you were being recommended for administrative discharge from the Marine Corps by reason of misconduct due to pattern of misconduct and misconduct due to drug abuse. You were advised of, and elected, your procedural rights to consult with and to be represented by military counsel, and to present your case to an administrative discharge board (ADB). After consulting with military counsel, you elected to

waive your right to an ADB. Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Marine Corps with an Other Than Honorable (OTH) characterization of service. The SA approved the recommendation and directed your administrative discharge from the Marine Corps with an OTH characterization of service by reason of misconduct due to drug abuse, and on 24 February 1992, you were so discharged.

You previously applied to this Board for an upgrade to your characterization of service but were denied on 24 January 2018.

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 discharge character of service and change your narrative reason for separation. The Board also considered your contentions that your discharge should be upgraded because you are a fully recovered drug addict, and you have been a model citizen of society for decades. For purposes of clemency consideration, the Board noted your character reference letter as supporting documentation in support of your application; however, the Board also noted that you did not provide supporting documentation describing post-service accomplishments.

Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP and SPCM conviction, 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. The Board also considered the fact your misconduct included a drug offense. While commends you for your rehabilitation of your drug addiction, it felt that insufficient post-discharge mitigation evidence was presented in support of your petition. As a result, the Board determined that your conduct was a significant departure from that expected of a Marine and continues to warrant an OTH discharge. 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,

6/9/2022

