



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: 3376-22
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel of the Board, sitting in executive session on 13 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).

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 and contentions that: (1) you were attacked by other Marines and feared for your life, (2) you joined the Marines at age 18 due to family strife, (3) due to your ignorance you ended up making enemies with black men in your unit, (4) one day after mealtime you went outside to smoke and made the comment, "I didn't know there were so many "N-----s around" which was heard by a group of black men who approached you; one of whom struck you, (5) since then the harassment continued, (6) after your overseas tour everything was going well for a while until you were robbed by some "blacks" in your unit, (7) you reported the incident to your superiors and those who robbed you were arrested, (8) while on leave you were severely beaten by three black men from you unit who were friends with those who robbed you, (9) you were threatened to not return to base, (10) you took this threat seriously, feared for your life, and did not return to base but went AWOL for

three months, (11) you regret all that happened and are ashamed of your part in all of this, (12) you tried to be a good Marine and do all of your duties to the best of your ability but circumstances and ignorance got in the way, (13) one of the main reasons you are requesting the upgrade is so you may be buried next to your parents and friends who are buried in a Veterans Cemetery, (14) you would like to be able to hold your head up high and be proud to have been a Marine and serve your country, and (15) you have great respect for the U.S. Marines. 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 repeated misconduct, as evidenced by your Special Court-Martial, two Summary Court Martials and seven nonjudicial punishments, outweighed these mitigating factors. In making this finding, the Board considered the nature of your misconduct and number of offenses you committed during your active duty service. Ultimately, the Board determined that your conduct showed a complete disregard for military authority and regulations. Additionally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' 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 a Bad Conduct 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. In the absence of sufficient new and material evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

7/5/2022

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Executive Director

Signed by: █