



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

█
Docket No: 3412-22
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 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).

During your enlistment processing you disclosed a minor traffic violation for speeding and paid a fine. A waiver was granted and you enlisted in the U.S. Marine Corps, commencing a period of active duty on 28 September 1981. On 29 July 1983, administrative remarks in your official military personnel file (OMPF) documented you were commended for your outstanding performance in preparation for the "█" visit of the Commandant to the base. On 9 August 1983, you received nonjudicial punishment (NJP) for wrongful use of cannabinoid.

Unfortunately, the documents related to your administrative separation are not in your official military personnel file (OMPF). In this regard, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Your Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that you were separated from

the Marine Corps on 11 October 1983 with an Other Than Honorable (OTH) characterization of service, your narrative reason for separation is "Misconduct – Drug Abuse," your separation code is "HKK1," and your reenlistment code is "RE-3B."

The Board carefully reviewed your application and 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 for an upgrade and contentions that: (1) this was an isolated incident, (2) your life has been drug and alcohol free, (3) you are remorseful for your actions, (4) you were a young man influenced by your peers in the Corps, (5) you honor your time spent in the USMC, and (6) you want your time in service to be recognized as Honorable. 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 an NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it was a drug offense. Further, the Board weighed your overall service against your misconduct. Finally, the Board noted there is no precedent within this Board's review, for minimizing the "one incident." As with each case before the Board, the seriousness of a single act must be judged on its own merit; it can neither be excused nor extenuated solely on its isolation. Ultimately, the Board concluded your conduct constituted a significant departure from that expected of a Marine and continues to warrant an OTH characterization. While the Board commends your post-discharge good character, 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,

7/5/2022

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Executive Director

Signed by: █