



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

█
Docket No: 3741-22
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 10 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 determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Marine Corps and began a period of active service on 5 August 2003. In October 2004, you were found wrongfully inhaling a can of computer cleaner to induce intoxication and excitement (huffing). You later admitted to two instances of huffing. On 30 December 2004, you submitted a statement expressing regret of your actions and a desire to remain in the Marine Corps. On 8 June 2005, you received non-judicial punishment (NJP) for three specifications of unauthorized absence (UA), and failure to obey a lawful order. You received a punishment of reduction in rank, and forfeiture of pay. The forfeiture of pay was suspended for a period of six months. On 13 June 2005, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug use. You failed to elect your rights following your notification of separation, thereby waiving your procedural

rights. On 23 June 2005, your suspension of punishment from your 8 June 2005 NJP, was vacated due to your continued misconduct of UAs while on restriction. On 1 August 2005, your commanding officer recommended your separation from the Marine Corps with an Other Than Honorable (OTH) character of service due to your drug use. Your administrative separation proceedings were determined to be sufficient in law and fact. Subsequently, on 25 October 2005, you were discharged with an OTH character of service by reason of misconduct due to drug abuse.

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 for a discharge upgrade and contentions that you believe you should not have been discharged for your misconduct and that you have since worked diligently to move forward with careers in corrections and the oil industry. 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 NJP, admission of huffing, and revocation of your suspended NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact you were involved in multiple incidents of drug abuse. Further, the Board considered that you were provided an opportunity to continue your Marine Corps career after your huffing incidents but chose to commit another drug offense. Based on these factors, the Board determined your conduct showed a complete disregard for military authority and regulations. 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. While the Board commends your post-discharge employment, 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,

7/5/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]