



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

■  
Docket No: 4005-22  
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 19 September 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.

During your enlistment processing you disclosed a previous charge of trespassing and were granted a moral waiver to proceed with your enlistment. You enlisted in the Marine Corps and began a period of active duty on 25 January 1986. On 5 July 1989, you were found guilty at a summary court-martial (SCM) of wrongful appropriation of a blue Nissan Stanza, property of AA Rental and leased to a fellow Marine. You were sentenced to be reduced in rank to E-2 which was suspended for six months. On 3 October 1991, you were counseled regarding deficiencies in your conduct which included two specifications of unauthorized absence (UA), failure to obey a lawful order, failure to comply with grooming standards, and failure to pay just

debts, at which time you chose not to make a statement. You were again counseled on 26 July 1991 regarding your deficiencies for failure to comply with state and local civilian laws, military regulations, and failure to pay just debts. The counseling also documents your refusal to sign the counseling entry. On 4 September 1991, you were counseled yet again regarding deficiencies in your conduct in that you wrongfully used a Citicorp Diners Club Credit Card and your failure to pay purchases made on said Citicorp Diners Club Credit Card, for which you chose not to make a statement. On 11 September 1991, you were found guilty at a special court-martial (SPCM) for three specifications of larceny, false signature, and wrongful appropriation of a military identification. You were sentenced to be confined for 100 days, reduced in rank to E-1, and to be discharged with a Bad Conduct Discharge (BCD). On 28 January 1992, you were found guilty at a general court-martial (GCM) for attempted larceny, making a false signature, two specifications of wrongfully and unlawfully uttering a check, five specifications of obtaining services under false pretenses, dishonorably failing to pay debt, and three specifications of wrongfully selling social security number cards, for which you were sentenced to be confined for five years and discharged with a Dishonorable Discharge (DD) characterization. On 22 November 1993, you were so discharged.

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 to upgrade your discharge to obtain Department of Veterans Affairs (VA) benefits and your contentions that: (1) since your diagnosis of kidney failure you have been unable to secure and maintain employment due to dialysis, and (2) you have not been able to find your own place because of █. 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 SCM, SPCM, and GCM convictions, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. The Board also considered the likely negative effect your conduct had on the good order and discipline of your unit. Finally, 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 DD characterization. While the Board empathizes with your medical conditions, 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.

Regarding your Camp Lejeune water contamination assertion, Public Law 112-154, Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, requires the Veterans Administration to provide health care to Veterans with one or more of 15 specified illnesses or

conditions. You should contact the nearest office of the Department of Veterans Affairs (DVA) concerning your right to apply for benefits or appeal an earlier unfavorable determination.

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,

10/3/2022

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Executive Director

Signed by: █