



**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: 4388-22  
6664-08  
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, sitting in executive session on 1 July 2022. The names and votes of the members of the panel 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 completed two honorable period of service in the Marine Corps from 14 February 1980 to 27 November 1984. You reenlisted on 28 November 1984 and continued your active service. On 16 May 1986, you received non-judicial punishment (NJP) for assault and battery. You went on a period of unauthorized absence (UA) from 7 June 1986 until your apprehension by civil authorities on 3 October 1986. On 17 November 1986, you were convicted at a special court-martial (SPCM) for your UA. You were sentenced to confinement, reduction in rank, and a Bad

Conduct Discharge (BCD). On 6 February 1987, your sentence was approved and affirmed. Subsequently, on 30 July 1987, you were discharge with a BCD as a result of a court martial conviction.

You previously applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade and were denied on 31 July 1990. This Board also denied your initial application for relief on 27 January 2009.

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 include, but are not limited to, your desire for a discharge upgrade and contentions that your hardship discharge request was denied and you went UA to deal with your pregnant fiancé. 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 and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct that included an assault and long term UA. Further, the Board considered the prejudicial effect your apprehension by civilian authorities had on the Marine Corps. Finally, the Board considered your arguments in mitigation regarding your fiancé but determined you had other options rather than to go UA. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Marine and continues to warrant a BCD. 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,

7/23/2022

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Signed by: █