



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: 5020-22
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 27 July 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).

You entered active duty with the Marine Corps on 15 February 1995. On 21 August 1996, you received non-judicial punishment (NJP) for operating a vehicle without a valid driver's license and wrongfully leaving the scene of an accident. During the period from 27 March to 9 May 1997, you received two additional NJPs for six specifications of absence from appointed place of duty and a violation of Article 92. As a result of your misconduct, you were also administratively counseled during this period.

Subsequently, on 15 July 1997, you were notified of pending administrative separation action by reason of minor disciplinary infractions. You elected to consult with legal counsel and requested an administrative discharge board (ADB). The ADB found that you committed misconduct due to minor disciplinary infractions and recommended you receive a General (Under Honorable Conditions) characterization of service. The separation authority (SA) concurred with the ADB

and directed a General (Under Honorable Conditions) discharge by reason of misconduct due to minor disciplinary infractions. On 12 September 1997, you were so discharged.

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 you were going through a rough time with your family when discharged and you were not given an opportunity to speak to someone about your mental health. The Board noted your record contained no documentation to support your contention of a mental health condition and you provided no evidence with your application. 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 NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that your conduct showed a complete disregard for military authority and regulations. The Board also took into consideration that you were warned about the consequences of your continued misconduct and the likely negative effect your conduct had on the good order and discipline of the unit. Finally, the Board noted you provided no evidence to substantiate your contentions and you were afforded the required due process rights during your administrative separation process. As a result, the Board concluded significant negative aspects of your service outweigh the positive aspects and continues to warrant a General (Under Honorable Conditions) characterization of service. 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,

8/15/2022

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Executive Director

Signed by: █