



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

█
Docket No: 6828-22
Ref: Signature Date



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 30 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).

You enlisted in the Marine Corps and began a period of active service on 29 June 1998. On 24 March 1999, you received non-judicial punishment (NJP) for unauthorized absence (UA) from 8 February 1999 to 23 March 1999. You were counseled, on 1 April 1999, due to your UA from your appointed place of duty and were notified further deficiencies may result in the initiation of administrative separation proceedings. From the period beginning on 9 April 1999 to 23 June 1999, you received non-judicial punishment (NJP) on three occasions for a total of six specifications of UA. On 9 July 1999, you received your fifth NJP, for UA and a violation of article 134. As a result, on 27 July 1999, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to a pattern of misconduct, at which point, you waived your right to consult with counsel and a hearing of your case before an administrative discharge board (ADB). After your commanding officer recommended your separation with an Other Than Honorable (OTH) characterization of service, on 10 August 1999,

the separation authority approved and directed your separation with an OTH by reason of misconduct due to the pattern of misconduct. On 13 August 1999, 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 characterization of service and contentions that you began having difficulties with another Marine and after informing your command and receiving no assistance, you reverted to behavior you learned from your difficult upbringing. You expressed remorse and asserted you have become an HVAC technician and you intend to work with veterans. For purposes of clemency consideration, the Board noted you provided an advocacy letter but no supporting documentation describing post-service accomplishments.

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 the likely negative impact it had on the good order and discipline of your unit. The Board also concluded 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. Even in light of the Wilkie Memo and reviewing the record holistically, 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,

10/20/2022

█

Executive Director

Signed by: █