



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

██████████
Docket No: 7188-22
Ref: Signature Date

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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 4 November 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 14 September 1999. You were counseled on 24 July 2001 and 7 October 2002 regarding unauthorized absence and failure to obey an order. You were notified further misconduct may result in the initiation of administrative separation. On 11 October 2002, you received non-judicial punishment (NJP) for wrongful appropriation of government equipment to a pawnshop. You were notified, on 8 November 2002, that you were not recommended for promotion due to pending legal action. On 3 December 2002, you received your second NJP for uttering checks without sufficient funds, and failure to maintain funds and pay debts. You were counseled, on 6 February 2003, for your failure to maintain Marine Corps body compositions standards. On 27 February 2003, you were counseled regarding your failure to report to your appointed place of duty on two occasions. As a result of the foregoing, on 10 March 2003, administrative separation proceedings were initiated due to your misconduct by reason of pattern of misconduct. On the same day, you elected your right to consult with counsel, and waived your right to a hearing of your case before an

administrative discharge board (ADB). On 11 March 2003, your commanding officer recommended your separation with an Other Than Honorable character (OTH) of service. Subsequently, the separation authority approved and directed your separation. On 12 March 2003, you were discharged with an OTH character of service by reason of misconduct due to pattern of misconduct.

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 character of service to Honorable and contention that you were separated for pattern of misconduct even though your only misconduct was selling your field gear. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough 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 and multiple counselings, outweighed these mitigating factors. The Board also considered the likely negative impact your repeated misconduct had on the good order and discipline of your unit. Finally, contrary to your contention, the Board found that your record of misconduct, as described above, supported your pattern of misconduct discharge. Based on these factors, 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 an upgraded characterization of service as a matter of clemency or equity. 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,

12/4/2022

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Executive Director
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