



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: 7437-22

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 30 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 duty on 28 April 1978. You completed this enlistment with an Honorable characterization of service on 24 September 1981. On 25 September 1981, you reenlisted and completed this enlistment on 10 July 1986 with an Honorable characterization of service. On 11 July 1986, you reenlisted and completed this enlistment on 8 September 1989 and immediately reenlisted. On 25 October 1991, you were convicted by a general court-martial (GCM) of unauthorized absence totaling 46 days and nine specifications of larceny. As punishment, you were sentenced to confinement, forfeiture of pay, reduction in rank, received a fine, and a Bad Conduct Discharge (BCD). The BCD was subsequently approved at all levels of review and, on 25 July 1994, 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 change your discharge character of service.

The Board also considered your contention that you were under extreme duress on active duty, and have since acted as a model citizen since being discharged from the Marine Corps. You assert that your financial problems impaired your ability to serve as an honorable Marine beginning in June 1990. Your spouse had medical concerns and became unemployable, you did not want to ask for help nor tell anyone what you were going through because you was trying to be a “strong person and a strong warrior as a Marine” until the financial responsibility became enormous to include the stress of caring for your wife. Due to the strain of all of your bills and medical treatments, it became overwhelming to you, which caused you to act in an unprofessional and illegal manner. For purposes of clemency and equity consideration, the Board noted you provided supporting documentation that included post-discharge accomplishments and advocacy letters.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct as evidenced by your GCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard of military authority and regulations. The Board also considered the negative impact your conduct likely had on the good order and discipline of your unit. The Board further concluded that the discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service, which was terminated by your BCD. As a result, the Board determined your conduct constituted a significant departure from that expected of a Marine and continues to warrant a BCD. 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 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,

12/13/2022

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Executive Director

Signed by: █