

DEPARTMENT OF THE NAVY

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

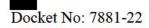
> Docket No: 7881-22 Ref: Signature date



This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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.

A three-member panel of the Board, sitting in executive session, considered your application on 14 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, 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 on 9 January 2017 and began a period of active duty. On 9 May 2017, you were counseled concerning ALMAR 0008/17 Social Media Guidance for Unofficial Internet Post. You acknowledged and understood that your online presence, or persona is an extension of your uniformed presence. On 20 November 2017, you were counseled for failure to obey a lawful order. You were advised that failure to take corrective action could result in administrative separation. On 12 January 2019, you were not recommended for promotion due to your lack of leadership. On 10 June 2019, you were not recommended for promotion due to your lack of initiative, lack of professionalism, and lack of judgement, at which point, you decided not to submit a rebuttal. On 26 July 2019, you were counseled for failure to pass the semiannual physical fitness test. You were advised that failure to take corrective action could result in administrative separation. On 11 September 2020, you were counseled for pending legal action due to violation of Social Media Guidance of unofficial internet posting. Your poor judgement and actions has resulted in being not recommended for promotion to Corporal for the quarter. On 22 September 2020, you were counseled for failure to obey an order or regulation, and use of indecent language. You were advised that failure to take corrective



action could result in administrative separation. On 25 September 2020, you received nonjudicial punishment (NJP) for failure to obey and order by using inappropriate and racial social media post, indecent conduct by making verbal statement at workplace and various social media post, and using indecent language. On 8 January 2021, you were discharged with an Honorable discharge characterization of service by reason of completion of required active duty service. Subsequently, you were issued an RE-4 reenlistment code.

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 for a change to your reenlistment code and contentions that you were not counseled on the issuance of the RE-4 reenlistment code in accordance with Marine Corps Order 1900.16 and this error is preventing you from pursuing further military service. 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 NJP and multiple counselings, outweighed these mitigating factors. The Board believed your acts of indiscipline reflect service that did not meet the standards of acceptable conduct and performance of duty, and warranted a RE-4 reentry code based on your unsuitability for further military service. The fact you may have not received a counseling explaining the basis for your RE-4 code was determined to be harmless error by the Board since your record contains multiple counseling addressing your substandard performance in addition to your NJP. 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 changing your reenlistment code or granting relief 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 the 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.

