



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

██████████  
Docket No. 2628-23  
Ref: Signature Date



Dear Petitioner:

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.

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 21 April 2023. 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 and began a period of active service on 19 October 1990. On 24 October 1991 you received a special court martial (SPCM) conviction for forgery of a personal check.

On 20 April 1992, you were counseled regarding your repeated misconduct, and notified further deficiencies in you conduct may result in the initiation of administrative separation proceedings. As a result of your disregard for traffic regulations, your driving privileges on Department of Defense (DoD) facilities were revoked for a period of one year beginning on 5 August 1992. On 15 October 1992, you received non-judicial punishment (NJP) for failure to obey a lawful order by driving on a DoD installation while on base revocation. You were counseled regarding you frequent involvement with military authorities on 12 November 1992.

On 17 March 1993, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to 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). On 28 March 1993, your commanding officer recommended your discharge from the Marine Corps with an Other Than Honorable (OTH) characterization of service. Subsequently, on 20 April 1993, you were discharged with an OTH discharge characterization 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 for a discharge upgrade and contentions that you served proudly, you would like to use veterans' benefits, you were in the [REDACTED], and you received an OTH character of service as a result of the military downsizing. For purposes of clemency and equity consideration, the Board noted you did not provide 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 repeating counseling warnings, SPCM, and NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your repeated misconduct and the likely negative impact it had on the good order and discipline of your unit. Further, contrary to your contention, the Board noted you were discharged for a pattern of misconduct vice "downsizing." Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member 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 granting you the relief you requested 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.

Sincerely,

5/9/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]