



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

■  
Docket No. 7722-23  
Ref: Signature Date

Dear ■

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 4 December 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, 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).

During your enlistment processing you were granted enlistment waivers for pre-service driving under the influence, minor traffic violations, and marijuana use. You enlisted in the U.S. Marine Corps and began a period of active service on 3 May 1988. On 9 August 1988, you received nonjudicial punishment (NJP) for violating a lawful order by falling asleep on fire watch. On 2 November 1988, you completed Level III treatment. On 12 April 1989, you were found guilty at a special court-martial of operating a vehicle while drunk resulting in the injury of a fellow Marine, operating a vehicle in a reckless manner, and wrongfully leaving the scene of an accident. You were sentenced to confinement for six months, forfeiture of \$175.00 pay per month for six months, and to be reduced in rank to E-1. You were subsequently notified of your pending administrative processing by reason of alcohol rehabilitation failure, at which time you elected your right to consult with counsel and waived your right to include statement in rebuttal to the proposed separation. On 22 June 1990, you were discharged with a General (Under

Honorable Conditions) (GEN) characterization of service by reason of alcohol rehabilitation failure.

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 your assertions that you are currently at the domiciliary in █, █ in-patient facility and, upon completion of the program, plan on “doing right by society and military standards.” For purposes of clemency and equity consideration, the Board noted you did not provide evidence of post-service accomplishments or character letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJP and SPCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. Additionally, the Board considered the likely negative effect your conduct had on the good order and discipline of your command. Further, characterization of is based, in part, on conduct averages, which are computed from marks assigned during periodic evaluations. Your conduct average was 3.8 and an average of 4.0 in conduct was required at the time of your separation for a fully Honorable characterization of service. Lastly, the Board determined you already received a large measure of clemency from the Marine Corps when they chose to discharge you based on alcohol rehabilitation failure rather than pattern of misconduct and commission of a serious offense; bases that likely would have resulted in an Other Than Honorable characterization of service. As a result, the Board concluded significant negative aspects of your service outweigh the positive aspects and continues to warrant a GEN 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 is attached 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,

12/14/2023

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