



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

█
Docket No. 8000-23
Ref: Signature Date



Dear █:

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 15 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 this 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 14 September 1993. On 5 August 1994, you received non-judicial punishment (NJP) for a period of unauthorized absence (UA) spanning 5 – 11 July 1994. On 27 July 1995, you again received NJP for UA between 30 May 1995 and 17 July 1995. On 4 December 1995, you received a third NJP for UA between 26 and 30 November 1995 and for failing to pay a known debt. Following this third NJP, you were again UA, on two separate occasions, for which you were found guilty at Summary Court-Martial (SCM), on 30 January 1996. On 10 March 1996, you were notified of administrative discharge proceedings against you, and your rights thereunder. You elected to consult with counsel and have an administrative discharge board. The administrative discharge board recommended you be discharged by reason of misconduct due to pattern of misconduct with a characterization of under Other Than Honorable (OTH) conditions. On 12 June 1996, 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. You contend that: (1) family instability and concern for your mother and sisters led you to make poor decisions, (2) while serving in the fleet you were exposed to individual leaders who did not prioritize your professional growth and guidance, to help you, as a young serviceman, be the best you could be, and (3) since discharge you have made it your mission to continue to serve your community, working very hard to become the first black Director of Public Works for your county, and the owner of your own transportation business serving southwest [REDACTED]. Additionally, the Board noted you checked the "Other Mental Health" box on your application but chose not to respond to the Board's request for supporting evidence of your claim. For purposes of clemency and equity consideration, the Board noted you provided a personal statement and five advocacy letters supporting your post-service activities or accomplishments.

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 NJPs and SCM, 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. The Board also considered the negative impact your conduct likely had on the good order and discipline of your unit. Further, the Board noted you were given an opportunity to continue your service after your third NJP, but continued to commit the same misconduct. 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. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge accomplishments, 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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,

12/18/2023

[REDACTED]