



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. 10441-23
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 9 February 2024. 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 commenced a period of active duty on 19 January 1988. Between 28 December 1989 to 27 April 1992, you were counseled on four occasions for the violation of the uniform code of military justice for various offenses to include numerous incidents of writing bad checks by the failure to maintain sufficient funds, sleeping on duty, lack of initiative, and lack of military bearing. On 13 August 1992, you were convicted at a summary court martial (SCM) for violation of a lawful order, refusing to be apprehended, and operating a vehicle while intoxicated. You were counseled regarding continued misconduct on 8 September 1992.

Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to minor disciplinary infractions. You elected your right to consult with counsel, and your right for a hearing of your case before an administrative discharge board (ADB). In the meantime, on 2 December 1992, you received non-judicial punishment for two

specifications of unlawfully uttering a check while failing to maintain sufficient funds. On the same day, you were counseled due to your violation of barracks orders by having a member of the opposite gender in your room past authorized hours.

On 15 January 1993, an ADB convened and determined you committed misconduct due to minor disciplinary infractions. The ADB recommended your separation from the Marine Corps with an other than honorable character of service. The separation authority concurred with the ADB's recommendation and directed your discharge. You were so discharged on 21 May 1993.

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 contentions that you were suffering mentally, been attending a local Department of Veterans Affairs support group, were six months short of completing your obligated service, and you were more good than bad. Additionally, the Board noted you checked the "PTSD" box on your application but chose not to respond to the Board's request for supporting evidence. For purposes of clemency and equity consideration, the Board noted you provided a personal statement but no 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 SCM, NJP, and multiple counselings, 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. Further, the Board considered the likely negative effect your misconduct had on the good order and discipline of your unit. Finally, the Board noted that you provided no evidence, other than your statement, to substantiate your contentions. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an other than honorable characterization. While the Board carefully considered the evidence you submitted in mitigation, 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,

3/1/2024

[REDACTED]

Executive Director

Signed by: [REDACTED]