



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. 2307-24
Ref: Signature Date

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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 submitted within the statute of limitations, the Board found it in the interest of justice to review your request. A three-member panel of the Board, sitting in executive session, considered your application on 22 April 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 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 United States Marine Corps and commenced a period of active duty on 21 April 1997. Over the course of your service, you were held accountable for multiple disciplinary infractions. On 28 May 1998, you received your non-judicial punishment (NJP) for violating Uniform Code of Military Justice (UCMJ) Article 86, for a period of unauthorized absence (UA) from your appointed place of duty, and Article 134, for being drunk on duty. On 29 September 1998, you were formally counseled based on your illegal drug abuse (marijuana), which was confirmed by urinalysis. On 4 August 1999, you received your second NJP for violating UCMJ, Article 86, for two specifications of UA, and Article 92, for two specifications for failure to obey an order. On 18 November 1999, you received your third NJP for violating UCMJ Article 111, for driving while intoxicated, and Article 92, for failure to obey a lawful order. You were formally counseled that further misconduct could result in judicial processing or your

administrative discharge. You did not appeal any of the NJPs. Finally, on 26 February 2000, you were formally counseled due to your habitual tardiness and failure to maintain quarters.

On 25 April 2000, you were notified that you were being processed for an administrative discharge by reason of misconduct due to pattern of misconduct. You waived your right to consult with qualified counsel and your right to present your case at an administrative separation board. On 13 June 2000, you were discharged from the Marine Corps for misconduct and assigned an Other Than Honorable (OTH) characterization of service and an RE- 4 reentry code.

You previously submitted an application to the Board for Correction of Naval Records and were denied relief on 17 June 2019.

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: (1) your desire to upgrade your discharge characterization and change your narrative reason for separation and reentry code, (2) your assertion that an OTH characterization is fundamentally unfair and too harsh a punishment for your non-violent youthful indiscretions, (3) the fact that it has been over 20 years since your discharge, and (4) your post-discharge accomplishments. For purposes of clemency consideration, the Board noted that you provided a resume detailing your post-service accomplishments.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and numerous counseling warnings, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that it involved drug abuse and drunk driving. Further, the Board also considered the likely negative impact your repeated misconduct had on the good order and discipline of your command. The Board determined that such misconduct is contrary to Marine Corps values and policy, renders such Marine unfit for duty, and poses an unnecessary risk to the safety of fellow service members and the community. A characterization under OTH conditions is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a service member. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board highlighted that your characterization was based on a series of infractions, not a one-time incident, and that you were given repeated opportunities to correct your behavior prior to discharge processing.

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,

5/1/2024

