



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. 6566-24
Ref: Signature Date

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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 15 July 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, 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 4 March 1991. On 15 November 1991, you completed the Level I Treatment Program. On 10 January 1992, you completed the Navy Alcohol and Drug Safety Program (NADSAP). On 18 February 1992, you were counseled concerning an alcohol related incident which took place at the █. You were advised that failure to take corrective action could result in administrative separation. On 3 March 1993, you were honorably discharged from the Marine Corps by reason of completion of required active duty service.

On 20 March 1997, you reenlisted and began a second period of active duty. On 22 September 1997, you were counseled concerning your poor judgement by threatening and assaulting a fellow Marine. You were advised that failure to take corrective action could result in administrative separation. On 15 February 2001, you immediately reenlisted after honorably completing your second enlistment.

On 8 January 2002, you were counseled concerning unauthorized absence (UA) from appointed place of duty. On the same date, you were counseled concerning poor leadership as evidenced by your state of poor physical fitness. You were given the opportunity to submit a rebuttal and you choose not to do so. On 21 March 2002, you were counseled concerning unsatisfactory performance of duty by not maintaining the Marine Corps weight standards and violation to UCMJ Article 92. You were advised that failure to take corrective action could result in NJP or administrative separation.

On 21 October 2003, you were convicted by summary court martial (SCM) for consuming alcoholic beverages prior to assume duty and wrongful previous overindulgence in intoxicating liquor. You were sentenced to reduction in rank, forfeiture of pay, and restrictions. On 12 November 2003, you were counseled concerning substandard performance of duty by demonstrating a lack of sound judgement as indicated by your recent alcohol related incident and your failure to follow orders and regulations.

On 13 November 2003, you were evaluated by a medical officer and diagnosed with alcohol dependency. On 14 November 2003, you were notified of the initiation of administrative separation proceedings by reason of physical condition not a disability, at which point, you decided to waive your procedural rights. Your commanding officer recommended a General (Under Honorable Conditions) (GEN) discharge characterization and the separation authority approved the recommendation. On 22 January 2004, you were so discharged.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for relief. The NDRB denied your request, on 12 July 2007, after determining your discharge was proper as issued.

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: (a) you were drinking at the time of your active duty service, (b) you have been sober since 2006, and (c) you graduated from an alcohol rehabilitation program. For purposes of clemency and equity consideration, the Board noted you did provide a character letter of support.

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 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 noted you were given multiple opportunities to correct your conduct issues but chose to continue to commit misconduct. Finally, the Board considered that you were provided rehabilitation treatment during your first enlistment period and were fortunate your command did not process you for your serious misconduct; conduct that could have resulted in an Other Than Honorable characterization of service.

As a result, the Board concluded your significant negative aspects of your final enlistment 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 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,

8/1/2024

