

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

> Docket No: 7347-24 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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 20 November 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 began a period of active duty on 23 October 2001. On 24 May 2004, you were issued an administrative remarks (Page 11) counseling concerning an unauthorized absence. On 4 February 2005, you were convicted by a summary court-martial (SCM) of four specifications of failure to go at the time prescribed to your appointed place of duty, wrongfully driving a privately owned vehicle while on restriction, two specifications of breaking restriction. On 10 February 2005, you were issued a Page 11 counseling concerning your violation of Article 86, Article 92, and Article 134 of the Uniform Code of Military Justice (UCMJ). On 9 March 2005, you received non-judicial punishment (NJP) for failure to go at the time prescribed to your appointed place of duty.

Your chronological record shows a period of confinement beginning on 19 May 2005. Your Certificate of Release or Discharge from Active Duty (DD Form 214) shows time lost during your period of service from 22 December 2003 to 12 January 2004 (21 days), 4 February 2005 to

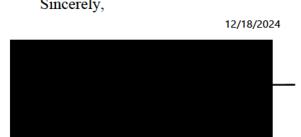
26 February 2005 (23 days), and 19 May 2005 to 1 August 2005 (75 days). On 22 October 2005, at the expiration of your active obligated service, you were issued a DD Form 214 that annotated your characterization of service as General (Under Honorable Conditions) (GEN).

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 discharge character of service and contention that your discharge certificate reflects Honorable service. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post service accomplishments or advocacy letters.

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 NJP and SCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded it showed a complete disregard for military authority and regulations. The Board also considered the likely negative effect your misconduct had on the good order and discipline of your unit. The Board thus concluded you were responsible for your misconduct that formed the basis for your GEN characterization of service. The Board also noted, despite your record of misconduct, you were given opportunities to correct your behavior and allowed to continue to the end of your obligated service rather than face administrative separation with the potential for an Other Than Honorable discharge. Therefore, the Board determined you already received a large measure of clemency. Finally, the Board was not persuaded by your discharge certificate since it is inconsistent with your service record and appears to have been issued in error.

As a result, the Board determined significant negative aspects of your active service outweighed 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 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,