



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. 8780-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 13 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 28 December 1993. On 3 October 1995, you received a retention warning (Page 11) for failing to obey a lawful order in that you failed to comply to maintain proper grooming standards. On 26 Mar 1996, you received your second Page 11 for making a false official statement. On 24 June 1996, you received your third Page 11 for being assigned to weight control. Between 6 September 1996 and 6 January 1997, you received four Page 11's for being overweight. On 14 January 1997, you were convicted by a general court-martial (GCM) for conspiracy to commit larceny, false official statement, larceny of \$8,000, and housebreaking. You were sentenced to confinement, forfeitures, reduction in paygrade, a fine, and a Bad Conduct Discharge (BCD). After completion of all levels of review, on 17 June 1998, 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 upgrade your discharge character of service and contentions that you were a young Marine with poor leadership, you have learned the power of poor decision making, you have turned your life around, contribute to your community, and you are trying to provide your daughter a better future. For purposes of clemency and equity consideration, the Board noted that you did not submit any documentation in support of your application.

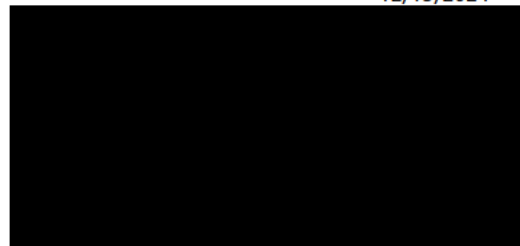
After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your GCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct¹ and concluded your misconduct showed a complete disregard for military authority and regulations. Further, the Board found that your misconduct was intentional and made you unsuitable for continued naval service. Furthermore, the Board also determined that the evidence of record did not demonstrate that you were not responsible for your conduct or that you should otherwise not be held accountable for your actions. Finally, the Board was unable to discern any impropriety or inequity in your discharge.

As a result, the Board determined your conduct constituted a significant departure from that expected of a service member and continues to warrant a BCD. 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,

12/13/2024



¹ In considering the seriousness of your misconduct, the Board noted you were sentenced to five years of confinement in addition to your BCD. In the Board's opinion, this sentence demonstrates the severity of your misconduct that included a housebreaking offense and larceny of \$8000.