



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

██████████
Docket No. 10026-24
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 28 January 2025. The names and votes of the members of the panel 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.

The Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove your 24 January 2002 and 31 January 2002 proficiency and conduct (pro and con) marks. You also request promotion to lance corporal (LCpl/E-3), or promotion to private first class (PFC/E-2); to be awarded the Global War on Terrorism Service Medal (GWOT-SM), corrections to your DD Form 214, and any pay and benefits you may be entitled. The Board considered your contention that your career trajectory looked promising until you were sexually assaulted on June 8, 2001. The Post Traumatic Stress Disorder (PTSD) from Military Sexual Trauma (MST) derailed your career and life and continues to do so. Prior to the PTSD event, your pro and con marks were 4.2/4.2 and 4.3/4.3 respectively. You also contend the pro and con marks were issued during the administrative separation process for misconduct, which resulted in your initial other than honorable discharge. You claim that the previous Board determined your misconduct “was mitigated by PTSD.” You further contend the unfavorable marks were a direct result of your misconduct, and since your misconduct was determined to be mitigated by PTSD, the marks are considered an error or injustice and should be rendered moot. You assert that your time in grade and time in service exceeded the requirements. You base this on your pro and con marks and other relevant scores; you assert that you should have been promoted to LCpl by 1 October 2001.

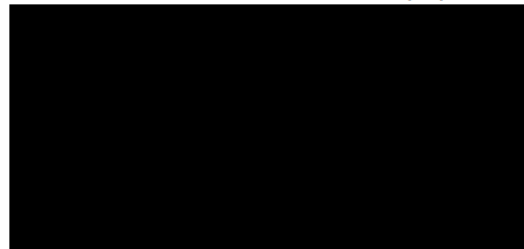
The Board in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. Concerning your PTSD and in service MST, the Board noted the previous Board's conclusion that your misconduct¹ was mitigated by the PTSD, however the previous Board did not excuse or remove any of your misconduct from your naval record. Likewise, this Board agreed with the previous Board's determination to correct relevant portions of your naval record and not to excuse or remove your misconduct. The Board noted that despite your command's interventions and disciplinary action, the misconduct continued and determined that your misconduct outweighs the relief requested. Moreover, the Board noted that your pattern of misconduct revealed your failure to demonstrate the necessary traits of maturity, leadership and professionalism required to qualify for promotion to a higher grade or restoration of grade.² The Board thus determined that your commanding officer acted properly and within his/her discretionary authority when issuing your pro and con marks, imposing punishments, and reducing you in rank. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Concerning your request for the GWOT-SM, the Board determined that you must exhaust your administrative remedies by submitting a request to Headquarters, U. S. Marine Corps (HQMC) Awards Branch, before applying to this Board. If HQMC denies your request, you are entitled to submit an new application to this Board with HQMC's correspondence for denying your request.

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,

2/14/2025



¹ 29 August 2001 nonjudicial punishment (NJP) for violating Uniformed Code of Military Justice (UCMJ) Articles 92 and 112 for falling asleep while on fire watch, wrongfully consuming alcohol while under the age of 21, and being drunk while on duty. Unauthorized absence status from 5 January 2002 to 10 January 2002. 25 January 2002 NJP for violating UCMJ Articles 86 and 112a for being absent without authority and the wrongful use of tetrahydrocannabinol (THC) and Methamphetamine at which time reduced to private (Pvt)/E-1. 1 March 2002 issued a counseling entry for continued drug use and failure to follow orders and regulations. 7 March 2002 NJP for the wrongful use of THC and were issued a counseling entry for drug abuse and advised of administrative separation. 12 April 2002 NJP for violating UCMJ Article 92 and 134 by consuming alcohol while under the age of 21 and breaking restriction by consuming alcohol while in a restriction status.

² Marine Corps Enlisted Promotion Manual: Marines in the grades of PFC and LCpl are required to exercise an ever-increasing degree of maturity, leadership and professionalism. No Marine shall be promoted to PFC or LCpl who has not demonstrated these traits and the desire to assume positions of higher responsibility.