



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

Docket No. 12459-24
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 14 March 2025. 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 14 September 2004. On 14 October 2005, you were issued an administrative remarks (Page 11) counseling for failure to follow a lawful order. On 22 November 2005, you received a Page 11 counseling for failing to properly maintain body composition standards. On 29 June 2006, you received a Page 11 6105 retention warning due to failing to properly maintain body composition standards and failure to pass the physical fitness test. On 7 July 2006, you received a Page 11 6105 retention warning for failing to be at your appointed place of duty and making a false official statement. On 10 July 2006, you received a Page 11 6105 retention warning for failure to contribute to good and discipline by repeatedly saying that you wished to leave the Marine Corps and displaying a poor attitude towards your work. Additionally, you were notified that you were being processed for administrative separation for minor disciplinary infractions. You chose not to make a written rebuttal.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file. Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Your Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that you were separated from the Marine Corps on 19 July 2006 with an Other Than Honorable (OTH) characterization of service, your narrative reason for separation is "Misconduct – Pattern of Misconduct," your separation code is "HKN1," and your reenlistment code is "RE-4."

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, (1) are requesting an upgrade due to what you endured and went through at the time at such a young age, (2) you had become pregnant, didn't tell anyone, didn't know what to do, were throwing up, and missed physical training, (3) you lied to your Sergeant about the pregnancy and said you were just sick, (4) you were embarrassed and tried to miscarry by taking things, (5) you got out with an OTH, miscarried, and married your ex-husband who was in the Army at the time, (6) you were married back then and had the benefits of a spouse so you didn't think you would ever need them, and (7) now that you are divorced you are looking at an upgrade in order to buy a house with a Department of Veterans Affairs Loan. For purposes of clemency and equity consideration, the Board noted you did not provide 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 repeated counselings outweighed these mitigating factors. In making this finding, the Board considered the repeated nature of your misconduct 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. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities.

As a result, the Board determined your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. Even considering 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, _____
4/10/2025

