



Docket No. 629-26
Ref: Signature Date

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 you did not file your application 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 16 March 2026. 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).

The following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

1. You enlisted in the Marine Corps and began a period of active duty on 6 August 2002.
2. On 30 October 2003, you received nonjudicial punishment (NJP) for violation of Uniform Code of Military Justice (UCMJ), Article 86 (two specifications of unauthorized absence (UA): (1) did absent yourself from 28 to 30 July 2003, and (2) did absent yourself on 30 May to 30 June 2003). You were awarded punishment of forfeiture of \$575 pay per month for 2 months, 30 days of restriction, and 30 days of extra duty.
3. From 4 February 2004 to 30 July 2004, you deployed in support of [REDACTED]

██████████.

4. On 29 July 2004, you were found guilty at special court martial (SPCM) of violating UCMJ, Article 107 (two specifications of making a false official statement) and Article 121 (larceny of personal property). You were sentenced to 6 months confinement, forfeiture of \$750 pay per month for a period of 6 months, and to be discharged from the service with a Bad Conduct Discharge (BCD).

5. On 12 October 2005, the U.S. Navy-Marine Corps Court of Criminal Appeals reviewed the record of trial and after careful consideration, affirmed the findings and sentence.

6. On 27 April 2006, you were discharged from the Marine Corps on the basis of the Court Martial conviction and received a Bad Conduct Discharge and a reentry code of RE-04.

In your application to the Board, you request an upgrade to your characterization of service to reflect an Honorable or General discharge, a change to your narrative reason for separation from "Court Martial" to Secretarial Authority," and that your RE-04 code be appropriately adjusted. You contend that:

1. With regard to your NJP, you indicate that you went UA after going home to help your parents on a four-day pass. You realized your parents were going through hard times so you asked your chain of command if you could stay longer. When your request was denied, you decided to stay regardless so that you could help your parents and elected to face the consequences when you returned.

2. You prioritized helping your parents. Your efforts helped your parents be able to catch up on their house payments and keep their home

3. While in Al Asad, Iraq you faced SPCM after you and a fellow Marine stole merchandise from a Marine who had unlawfully taken the merchandise from Exchanges that had been set up Iraq. You state that the Marine had stolen a DVD player, DVDs, a digital camera, and other items from Exchanges. You and your co-conspirator stole the previously stolen items from the other Marine with the intent to send the twice-stolen items home. You acknowledge that you were untruthful at the start of the investigation but state that you eventually told the truth and pleaded guilty. You express remorse for your actions.

4. Your post-service actions, to include your lack of issues with law enforcement and your dedication to your spouse and five children, demonstrates your true character.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately discharged from the Marine Corps with a BCD on the basis of your SPCM conviction and approved sentence. The Board noted you did not deny committing the misconduct that formed the basis of your conviction and that you accepted responsibility for your misconduct. Therefore, the Board determined the presumption

of regularity applies to your BCD and found that no error exists with your record.

The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your contentions that you prioritized your family's wellbeing, you are remorseful for your actions, you ultimately were truthful about the larceny, and you have committed yourself to a productive and positive life post-military service.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, the Board found that your conduct showed a complete disregard for military authority and regulations, and had a negative impact on good order and discipline while your unit was deployed to a combat zone. While the Board considered your remorse, your acceptance of responsibility, and your post-service achievements and contributions to your family and community, the Board concluded that the severity of your misconduct outweighed the mitigation information you provided. Therefore, the Board did not find an upgrade of your discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice. Based on the same rationale, the Board found no basis in equity or clemency to change your reason for separation or reentry code.

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 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,

3/27/2026

