



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: 1952-21

Ref: Signature Date

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Dear █

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 16 July 2021. 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, 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 June 1971. From a period beginning on 21 October 1971 to 18 January 1973, you received nonjudicial punishment (NJP) in five occasions for the following offenses: failure to obey a lawful order or regulation, sleeping on duty, disrespectful in language towards a noncommissioned officer, absent from appointed place of duty, disrespectful in language towards a superior noncommissioned officer, and disobeying a lawful order. On 25 April 1974, you were counseled for interference of your personal life problems with your duties. You were advised that failure to take corrective action may result in disciplinary action. On 1 May 1974, you received a sixth NJP for dereliction of duty, and failure to get a haircut. On 15 May 1974, you failed to report to you appointed place of duty. On 22 May 1974, you received a seventh NJP for been absent from your appointed place of duty. On 9 September 1974, you began a period of unauthorized absence (UA) which lasted two-days. On 12 September 1974, you were convicted by the State of █ Civil Court for theft in the first degree. Subsequently, you were sentenced to five years in probation. On 18 September 1974, you received an eight NJP for one period of UA. On 17 December 1974, you began a

second period of UA which lasted seventy-four days and resulted in your apprehension by civil authorities. On 19 December 1974, you send a letter to the Commandant of the Marine Corps in which you stated your refusal to come back from UA, you claimed to have a steady job, and requested to be discharge while in absence. This request was denied by letter dated 22 January 1975. On 2 April 1975, you began a third period of UA which lasted two-hundred and twenty-seven days. On 30 December 1975, you requested to be discharged for the good of service in lieu of trial by court-martial, at which point, you waived all your procedural rights. On 31 December 1975, your separation proceedings were determined to be sufficient in law and fact. On 23 January 1976, you were discharged with an other than honorable (OTH) characterization of service.

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 contention that you encountered difficulties trying to take care of your family. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your repeated misconduct, as evidenced by your NJPs and civil conviction, outweighed these mitigating factors. The Board noted you did not submit any documentation or advocacy letters to be considered. 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 the 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,

7/30/2021

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Executive Director

Signed by: █