



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: 2042-21
Ref: Signature Date



Dear Petitioner:

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 the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 2 August 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 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, including 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 commenced a period of active duty on 16 February 1972. Beginning on or about 20 December 1974, you were tried in a Japanese court, over a period of several court sessions, along with other accused service members on charges related to selling marijuana. The █ court found you guilty and sentenced you to two years of hard labor. The court suspended the sentence for a period of three years. You were notified of the initiation of administrative separation processing, and you availed yourself of your right to an administrative discharge board and the right to be represented by counsel before a panel of four officers. Your administrative discharge board was held on 2 April 1975, and the Board determined that you committed misconduct as a result of a civil conviction by a Japanese court for possession and transfer of marijuana, that you were sentenced to two years hard labor (suspended), that, based on these offenses, you were not suitable for retention, and that your

discharge should be undesirable (other than honorable). On 8 May 1975, you were discharged with an other than honorable characterization of service.

The Board carefully considered all potentially mitigating factors in your current petition to determine whether the interests of justice warrant relief in your case including in accordance with the Wilkie Memo. You contend in your petition that, after your discharge, you moved back to █ and put your dual-axle vehicle license to good work, obtaining employment working first as a truck driver for beer distributors and, later, working in sales in marketing. You further state that, even though you did not graduate from college, you took all the education courses you could and you competed with college graduates for jobs and opportunities. You explain that you worked for █ Company for 26 years and you are now retired, and that you never engaged in any substance abuse and you never had any issues with the law. Shortly after you arrived back from the Marine Corps, you met your wife, and you have been married for over 42 years, raising two daughters with, now, three grandchildren, and one great-granddaughter. You state that you accept full responsibility for your past behavior, you will always regret your bad choice and indiscretions during your service in the Marine Corps and your misguided involvement with drugs. Finally, you note that your commanding officer and other officers and colleagues recommended, at the time, that you receive a general characterization of service.

In review of all of your materials, the Board did not find an injustice in your record warranting relief. The Board closely reviewed and considered the post-service matters that you provided, and it and commended you for your employment achievements as well as your community and family spirit. The Board reviewed the charged misconduct for which you were convicted by a Japanese court, and determined that it was very serious. Concerning your contention that several of your colleagues recommended that you receive a general (under honorable conditions) characterization of service, the Board noted that your other than honorable characterization of service was recommended by the administrative discharge board in your case after hearing all of the presented evidence and arguments. In conclusion, given the totality of the circumstances, as well as a review of your overall service record, which included a conviction by a foreign court and subsequent sentence to two years of hard labor (suspended for three years), 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, _____

8/6/2021

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Executive Director

Signed by █