



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

Docket No: 4882-21

Ref: Signature Date

Dear [REDACTED]

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 4 October 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 14 July 1972. On 22 June 1976, you were convicted by special court-martial (SPCM) for two instances of wrongfully selling marijuana, two instances of wrongfully transferring marijuana, and two instances of wrongfully possessing of marijuana. You were sentenced to a bad conduct discharge (BCD), reduction to the rank of E-1, confinement, and forfeit \$100.00 pay per month for one month. On 10 September 1976, a court martial progress report indicated that you were unable to adjust or accept regimentation, and expressed your desire to return back to duty. On 20 December 1976, the U.S. Navy Court of Military Review approved your SPCM sentence. On 12 May 1977, the Naval Clemency and Parole Board denied your request for clemency and restoration. On 22 August 1977, the Court of Military Appeals denied your petition for grant and review. On 9 September 1977, discharge authority approved your SPCM sentence. On 20 September 1977, you were discharged with a BCD 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 were facing challenges understanding the English language, and your contention that your recruiter modified your birth certificate at the time of your enlistment. 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, 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,

10/4/2021

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Executive Director

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