



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

Docket No: 5013-21

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 27 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 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 10 August 1977. On 16 January 1978, you received nonjudicial punishment (NJP) for failure to report to your appointed place of duty. On 20 March 1978, you received a second NJP for failure to report to your appointed place of duty. On 19 April 1978, you were convicted by summary court-martial (SCM) for four instances of disobeying a lawful order, being disrespectful in language towards a noncommissioned officer (NCO), and willful disobedience of a lawful order. You were sentenced to thirty-days restriction and forfeiture of pay. On 8 September 1978, you received a third NJP for been disrespectful in language towards a fellow Marine, and assault. On 26 December 1978, you began a period of unauthorized absence (UA) which lasted 14 days. On 22 January 1979, you began a second period of UA, which lasted 29 days. On 26 April 1979, you were convicted by SCM of two specifications of UA. You were sentenced to confinement and reduction to the rank of E-1. On 22 September 1979, you received a fourth NJP for willful disobedience of an order given by an NCO. On 15 October 1979, you began a third period of

UA, which lasted four hours. On 17 October 1979, you began a fourth period of UA, which lasted 10 hours and 30 minutes. On 22 October 1979, you received a fifth NJP for jumping the fence of a military base with the intent to go on liberty during a tropical storm emergency, and two instances of UA. On 7 January 1980, your commanding officer recommended a trial by court-martial. On 30 January 1980, you requested a discharge for the good of service with the intent to escape trial by court-martial. On 6 February 1980, your administrative separation proceedings were determined to be sufficient in law and fact. On the same date, the discharge authority approved and ordered an other than honorable (OTH) discharge characterization of service by reason of separation in lieu of trial by court-martial. On 21 February 1980, you were discharged.

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 falsely and wrongfully discharged for assaulting an officer. 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 SCMs, 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,

9/14/2021

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Executive Director

Signed by:

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