



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: 5737-21

Ref: Signature Date

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 8 November 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 September 1969. On 10 March 1970, you began a period of unauthorized absence (UA) which lasted 22 days. On 14 April 1970, you received nonjudicial punishment (NJP) for a period of UA. On 2 May 1970, you were counseled for past and present conduct of discreditable nature with military authorities. You were advised that failure to take corrective action could result on the initiation of administrative separation proceedings. On 25 May 1970, you began a second period of UA which lasted 79 days. On 17 August 1970, you received a second NJP for a period of UA. On 28 August 1970, you began a third period of UA which lasted 26 days. On 5 October 1970, you began a fourth period of UA which lasted 34 days, and resulted in your apprehension by civil authorities. On 10 November 1970, you began a fifth period of UA which lasted nine-days. On 6 December 1970, you began a sixth period of UA which lasted six-days. On 18 December 1970, you began a seventh period of UA which lasted 50 days, and resulted in your apprehension by military authorities. On 26 March 1971, you received a third NJP for four periods of UA. On 2 April

1971, your commanding officer (CO) responded to your congressmen inquiry and informed him about your pending special court-martial (SPCM) proceedings. On 13 April 1971, a medical officer diagnosed you with immature and situational depression and found you unfit for further military service. On 1 July 1971, you were convicted by SPCM for six periods of UA. On the same date, a military judge failed to instruct you that you could present evidence in extenuation and/or mitigation of the offenses of which you were found guilty. As a result of the foregoing, a SPCM rehearing was ordered.

On 14 July 1971, your CO informed your congressmen about your continuous disciplinary issues. On 6 October 1971, you were convicted during a SPCM rehearing for six periods of UA. You were sentenced to confinement for three months and forfeiture of \$90.00 pay for four months. On 17 March 1972, you began an eight period of UA which lasted three-days. On 20 March 1972, you received a fourth NJP for a period of UA and failing to check on liberty. On 8 April 1972, you began a ninth period of UA which lasted three-days. On 16 April 1972, you began a tenth period of UA which lasted one-day, 8 hours, and 30 minutes. On 21 April 1972, you began an eleventh period of UA which lasted two-days, twenty hours, and 45 minutes. On 2 May 1972, you were convicted by summary court-martial (SCM) for three periods of UA, and breaking restrictions. You were sentenced to confinement for 15 days and forfeiture of \$160.00 pay for one month. On 20 May 1972, your CO recommended an other than honorable (OTH) discharge characterization of service by reason of frequent involvement of a discreditable nature with military authorities. On 5 June 1972, you began a twelfth period of UA which lasted 11 hours. On 9 June 1972, you received a fifth NJP for a period of UA. On 16 June 1972, you began a thirteenth period of UA, which lasted 5 hours and 15 minutes. Thereafter, you received a sixth NJP for a period of UA. On 5 July 1972, you began a fourteenth period of UA which lasted 252 days. On 24 April 1973, you requested a discharge for the good of service, at which point you elected to waive all your procedural rights. On 27 April 1973, your separation proceedings were determined to be sufficient in law and fact. On 30 April 1973, the discharge authority approved and ordered an OTH discharge by reason of good of service as undesirable. On 10 May 1973, 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 desire to upgrade your discharge in order to qualify for VA benefits, and your contentions that: (a) you were found immature for service over 45 years ago, but the Marine Corps decided to retain you in service; and (b) you should have received a general discharge characterization of service before being separated from service. 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, SPCM, and SCM 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

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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, _____

12/3/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]