



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

█
Docket No: 5799-21
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 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 25 October 2021. The names and votes of the panel members will be furnished upon request. Your allegations of error or 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 U.S. Marine Corps and began a period of active duty on 2 October 1972. On 23 July 1973, you received your first nonjudicial punishment (NJP) for being derelict in the performance of your duties. On 27 July 1973, you received a second NJP for unlawfully trying to obtain \$3.00 and for threatening to cause bodily harm. On 6 February 1974, you received a third NJP for being disrespectful in language. On 26 August 1974, you received a fourth NJP for disobeying a lawful order from rifle range military police and for violating a written order by wearing your utility uniform as a liberty uniform. On 20 June 1975, you were convicted at a General Court-Martial (GCM) for larceny of government property and for unlawfully entering the rifle range dining facility with intent to commit larceny. You were sentenced to confinement at hard labor for 18 months, forfeiture of \$200.00 pay per month for 18 months, reduction in rank to E-1, and to be discharged with a bad conduct discharge (BCD) characterization of service. On 15 September 1975, the Convening Authority approved your sentence with the exception of your confinement at hard labor, which was approved for 63 days vice 18 months. On 24 February

1977, you submitted matters for clemency to Navy Clemency and Parole Board requesting a suspension of your discharge, restoration to duty, remission of your punitive discharge, and that your punitive discharge be substituted to a general characterization of service. On 1 September 1977, your clemency request was denied. Subsequently, on 17 November 1977, you were discharged with a BCD.

You contend that you did not partake in the act conducted and that you in fact testified as a witness for the “plaintiff.” The Board viewed your allegations with serious concern. However, this Board is not an investigating agency nor does it have the resources to investigate unsubstantiated allegations.

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 contentions noted above, and desire to upgrade your discharge. Additionally, the Board noted you did not submit advocacy letters or post-service documents to be considered for clemency purposes. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your GCM and four (4) NJPs, outweighed these mitigating factors. 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 is attached 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,

11/2/2021

█
Executive Director
█