



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

█  
Docket No: 5857-21

Ref: Signature Date

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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 7 February 2022. 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 Army National Guard and began a period of active duty on 29 August 1960. On 28 August 1963, you were discharged with an honorable (HON) discharge characterization of service. On 29 August 1963, you began a second period of active duty with the Army Reserves. On 6 November 1963, you were discharged with an HON characterization of service. On 7 November 1963, you enlisted in the Marine Corps and began a period of active duty service. On 15 February 1965, you began a period of unauthorized absence (UA) which lasted 18 hours. On 17 February 1965, you received nonjudicial punishment (NJP) for a period of UA. On 27 June 1965, you received a second NJP for violation of a lawful general order. On 26 October 1965, you were convicted by special court martial (SPCM) for stealing one transistor radio. You were sentenced to reduction to the rank of E-1, confinement at hard labor, and forfeiture of pay. On 31 December 1965, you began a second period of UA which lasted 11 hours and 45 minutes. On 4 January 1966, you were convicted by summary court martial (SCM) for disobeying a lawful order, disrespectful in language towards a lance corporal, and a period of UA. You were

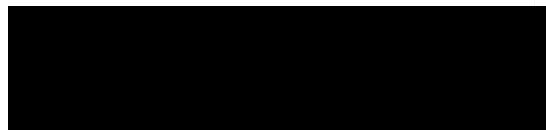
sentenced to confinement at hard labor. On 23 February 1967, you were discharged with an honorable characterization of service. On 24 February 1967, you reenlisted in the Marine Corps and began a period of active duty service. From a period beginning on 8 March 1969 to 5 September 1969, you received NJP on four occasions for the following offenses: three instances of failure to report to appointed place of duty, and wrongfully appearing to formation in civilian clothing instead of wearing your working uniform. On 5 January 1970, you began a third period of UA, which lasted four days. On 19 January 1970, you received a seventh NJP for a period of UA. On 2 March 1970, you began a fourth period of UA which lasted 81 days and resulted in your apprehension by civil authorities. On 15 June 1970, you began a fifth period of UA which lasted one day. On 19 June 1970, your previous NJP sentence was vacated. On 23 June 1970, your commanding officer recommended the approval of your request for a discharge in lieu of trial by court martial. On 24 June 1970, you requested to be discharged from service with the intent to escape trial by court martial. On 29 June 1970, your administrative separation proceedings were determined to be sufficient in law and fact. On 8 July 1970, the discharge authority approved and ordered and other than honorable discharge characterization of service in lieu of trial by court martial. On 14 July 1970, you were discharged. On 12 September 2012, this Board denied your previous request for a discharge upgrade.

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 desire to have your discharge upgraded from OTH to a general. 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 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,

2/18/2022



Executive Director

