



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: 5887-21
Ref: Signature Date

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Dear █:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. 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 3 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, and 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 on 30 August 1973. On 25 September 1973, you received non-judicial punishment (NJP) for disrespect to a non-commission officer (NCO) and failure to obey a lawful order or regulation. On 20 March 1974, you received NJP for unauthorized absence (UA) totaling four days. On 16 April 1974, a summary court-martial (SCM) convicted you of UA for one day, two specifications of absence from appointed place of duty, and two specifications of disobeying a lawful order. On 18 April 1974, you received NJP for two specifications of absence from appointed place of duty and disobeying a lawful order. On 30 October 1974, a special court-martial (SPCM) convicted you of UA totaling 108 days. On 30 January 1975, you received NJP for four specifications of absence from appointed place of duty, communicating a threat, and two specifications of disobeying a lawful order. On 18 February 1975, you went into an unauthorized absence (UA) status and remained until 23 April 1975 totaling 64 days. On 1 May 1975, you submitted a written request for discharge for the good of the service (GOS) to avoid trial by court-martial for being UA 64 days.

Prior to submitting this request, you conferred with a qualified military lawyer, at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Your request was granted, and your commanding officer (CO) was directed to issue an other than honorable (OTH) discharge for the good of the service. As a result of this action, you were spared the stigma of a court-martial conviction, as well as the potential penalties of such a punitive discharge. On 19 June 1975, you were so discharged.

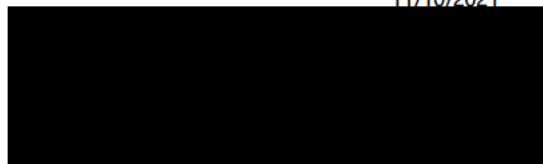
The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to upgrade your discharge and your contention that you were given an illegal court-martial, which should have been an Article 15. The Board noted that there is no evidence in your record, and you submitted none, to support your contention.

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 four NJPs, SCM, SPCM, and request for a GOS discharge, 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 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,

11/10/2021

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Executive Director

Signed by: 