



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: 6219-21

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 the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 limitation and consider your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 6 December 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Marine Corps and began a period of active duty on 23 March 1973. On 29 August 1974, you were convicted by a special court-martial for a period of unauthorized absence from 22 January 1974 to 6 June 1974. You commenced another period of unauthorized absence from 15 May 1975 to 16 January 1976. On 10 February 1976, you submitted a request for discharge for the good of the service. Your request was approved on 12 February 1976, and thereafter you commenced another period of unauthorized absence. On 2 March 1976, your commanding general requested authority from the Commandant of the Marine Corps to discharge you in your absence. On 11 March 1976, the Commandant of the Marine Corps

approved the request to discharge you in your absence. On 23 March 1976, never having returned to military control, you were discharged, and your final paperwork was mailed to your last known address.

The Board carefully considered all potentially mitigating factors in your petition to determine whether the interests of justice warrant relief in your case including in accordance with the Wilkie Memo. These included, but were not limited to, your contentions that: (a) you joined the Marines with good intentions, and that you understood you were going to be a diesel mechanic, but when your plans were delayed or denied by your commanding officer, your immaturity, stubbornness and lack of good judgment did not help you, and you believe your command exhibited extremely poor leadership, which only fueled the fire; (b) now, over 40 years later, you are a God-fearing man, born again Christian, and you have been a productive citizen working hard every day of your life; and (c) you raised two children on your own since your wife died in a car accident, and that you still serve your church to this day.

Based upon its review, the Board concluded the potentially mitigating factors that you raised were insufficient to warrant relief. The Board commended you with respect to your post-service activities that you described in your petition. Nevertheless, the Board considered that you were convicted by a special court-martial for a lengthy period of unauthorized absence followed by another period of unauthorized absence, your request for discharge in lieu of a trial by court-martial was granted, and you commenced a third period of unauthorized absence and never returned to the Marine Corps. In light of this misconduct, 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,

1/24/2022

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Executive Director

Signed by: █