



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

■  
Docket No: 6867-21  
Ref: Signature Date



Dear Mr. Petitioner:

This is in reference to your application for correction of your father's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your father's 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 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).

You enlisted in the Marine Corps on 28 June 1976. During the period from 23 July 1976 to 27 June 1977, you received two non-judicial punishments (NJP) for smoking marijuana and being in an unauthorized absence (UA) status for one day. On 15 September 1977, a special court-martial (SPCM) convicted you of theft valued at \$60.00. You were sentenced to confinement for 90 days, forfeiture of pay, and a bad conduct discharge (BCD). On 8 February 1978, a second SPCM convicted you of UA totaling six days, possession of a pellet gun, and wrongful possession of marijuana. You were sentenced to confinement for 90 days, forfeiture of pay, and a BCD. After the BCD was approved at all levels of review, on 8 June 1978, 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 contention that you did not deserve a BCD due to having high Pro and Con Marks when discharged.

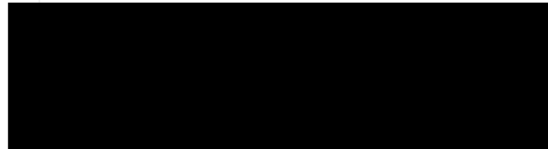
The Board noted that a Marine's service is characterized at the time of discharge based on performance during the current enlistment. The Board also noted that you were convicted by a SPCM, which found you guilty and sentenced you to a BCD.

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 two NJPs and two SPCM convictions 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,

12/20/2021



Executive Director

Signed by:

