



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

█  
Docket No: 7351-21  
Ref: Signature Date



Dear Petitioner:

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 12 January 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 11 December 1974. According to the information in your record. You were in an unauthorized absence (UA) status from 23 October 1975 to 6 February 1976 totaling 106 days. On 8 March 1976, you received NJP for being in a UA status for 106 days. As a result, your command officer (CO) initiated administrative separation producers. Although the Board lacked your entire service record, the Board relied on a presumption of regularity that you were notified of the recommendation that you be discharged by reason of parenthood. After you waived your rights, your CO forwarded your package to the separation authority (SA) recommending your discharge by reason of parenthood, with a general under honorable conditions characterization of service. The SA approved the recommendation, and on 31 March 1976, you were so discharged.

As stated previously, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to rebut the presumption, to include evidence submitted by the Petitioner, the Board presumes that you were properly discharged from the Marine Corps.

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 contentions that the State of New York denied you military service credit because you have a general under honorable conditions discharge, the Department of Veteran Affairs (DVA) recognized your service as honorable, and you will be retiring from your job in two years.

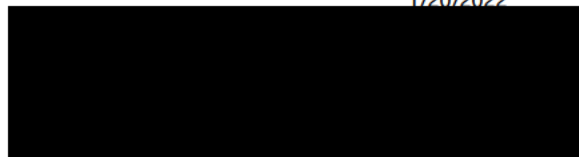
The Board noted that the DVA only has the authority to determine your eligibility for DVA benefits and their decision does not have the authority or ability to change your naval record. Lastly, the Board noted while commendable, your post service conduct does not excuse your conduct while enlisted in the Marine Corps or the basis for your discharge.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, missing/incomplete records, and your failure to provide documentation to support your request 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,

1/20/2022

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Executive Director

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