



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: 7543-21
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 5 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 and began a period of active duty on 6 July 1949. During the period from 28 August 1951 to 7 August 1952, you received four instances of non-judicial punishment (NJP). Your offenses were willfully disobeying a lawful order, dereliction in the performance of duty, absence from your appointed place of duty, failure to go to your appointed place of duty, and unauthorized absence. On 23 August 1952, you were convicted by summary court-martial (SCM) of breaking restriction. On 29 August 1952, you received your fifth NJP. The charge and specification of your fifth NJP were not specified in the record. On 20 November 1952, at the expiration of your active service, you were issued a Certificate of Release or Discharge from Active Duty (DD Form 214) that annotated your characterization of service as general (under honorable conditions).

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 character of service. The Board also considered your contention that you “had no part in assault for cause.”

Characterization of service is based in part on conduct marks assigned on a periodic basis. Your conduct mark average was 3.8. At the time of your service, a conduct mark average of 4.0 was required to be considered for a fully honorable characterization of service. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct as evidenced by your five NJPs and SCM conviction, outweighed these mitigating factors. The Board further concluded that your general (under honorable conditions) is appropriate as issued based on your misconduct. Accordingly, given the totality of the circumstances, the Board determined 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,

1/19/2022

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Executive Director

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