



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: 7928-21
Ref: Signature Date



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 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 31 January 2022. 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 this 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 U.S. Marine Corps and began a period of active duty on 26 July 1979. On 18 August 1980, you were convicted at a summary court-martial (SCM) for an unauthorized absence (UA) totaling 18 days and for possessing one gram of marijuana. You were sentenced to confinement at hard labor for 30 days, forfeitures of \$298.00 pay per month for one month, and to be reduced in rank to E-1. Approximately three months later, on 25 November 1980, you received nonjudicial punishment (NJP) for a one day UA. Further, you received more than four administrative counseling entries from December 1980 through July 1981 for multiple infractions ranging from a lack of maturity and responsibility to poor performance. On 27 August 1981, you were found guilty at a second SCM for two specifications of UA totaling 32 days and disobeying a lawful order. You were sentenced to confinement at hard labor for 30 days and forfeitures of \$300.00 pay per month for one month.

Unfortunately, the documents related to your administrative separation are not in your official military personnel file (OMPF). In this regard, the Board relies on a presumption of regularity to support the official actions of public officials and, in the absence of substantial evidence to the contrary (as is the case at present), will presume that they have properly discharged their official duties. However, your Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that you were separated from the Navy on 25 November 1981 with a OTH characterization of service, your narrative reason for separation is "Misconduct-Frequent Involvement (Admin Board)," your separation code is "GKA1," and your reenlistment code is "RE-4."

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 contention that your discharge should be upgraded because you were exposed to water contamination on Marine Corps Base, Camp Lejeune, North Carolina. The Board viewed your allegations with serious concern. However, this Board is not an investigating agency nor does it have the resources to investigate unsubstantiated allegations. Additionally, the Board noted you did not submit advocacy letters or post-service documents to be considered for clemency purposes. 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 NJP and two (2) SCMs, outweighed your unsubstantiated assertion of water contamination exposure. In making this finding, the Board also considered that no evidence exists in your record to document that your alleged exposure to contaminated water resulted in any negative effects. 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,

2/15/2022

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Executive Director

Signed by: █