



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

█  
Docket No: 7933-21  
Ref: Signature Date

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Dear 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 2 March 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 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 entered active duty with the Marine Corps on 29 August 1977. During the period from 7 September 1978 to 30 January 1979, you received two non-judicial punishments (NJP) for sleeping on post, two specifications of disrespectful toward a non-commissioned officer (NCO), and disobeying a lawful order. On 3 April 1979, a special court-martial (SPCM) convicted you of three specifications of failure to go to appointed place of duty, disobeying a lawful order, two specifications of disrespectful in language toward an NCO, and assault. During the period from 17 October 1979 to 29 August 1980, you received four NJPs for loss of government property,

two specifications of absence from appointed place of duty, unauthorized absence (UA) for two days, disobeying a lawful order, and making a false official statement. On 9 February 1981, a SPCM convicted you of four specifications of UA totaling 16 days. You were sentenced to confinement for 90 days, forfeiture of pay, and a bad conduct discharge (BCD). After the BCD was approved at all levels of review, on 4 November 1982, 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 contentions that you were harassed by your supervisor, meritoriously promoted out of Boot Camp, and attended Sniper School.

The Board noted that there is no evidence in your record, and you submitted none, to support your contention of being harassed by your supervisor. The Board also noted that a Marine's service is characterized at the time of discharge based on performance during the current enlistment.

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 six NJPs and two SPCM convictions, outweighed the mitigating evidence in your case. In addition, the Board was not persuaded by your allegations of harassment. As a result, when weighing the seriousness of your misconduct against your active duty service, including your meritorious promotion and attendance of sniper school, the Board concluded that the preponderance of the evidence supports a finding that your conduct was a significant departure from that expected from a Marine and merits an Other than Honorable characterization of service. 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,

3/9/2022

Executive Director