



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: 0223-22

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 23 February 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, 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 enlisted in the Marine Corps and began a period of active duty on 20 April 1970. On 4 December 1970, you received nonjudicial punishment (NJP) for wrongful possession of an unregistered weapon aboard a military reservation. On 24 July 1972, you were honorably discharged from the Marine Corps by reason of convenience of the government. On 25 July 1972, you reenlisted and began a second period of active duty. On 26 October 1972, you received a second NJP for unauthorized absent (UA) from appointed place of duty, and disobeying a lawful order from a superior commissioned officer. On 29 November 1972,

you received a third NJP for the following offenses: being absent from your appointed place of duty, disrespectful in language towards a superior commissioned officer, disobeying a lawful order by operating a motorcycle without a license, failure to take the required motorcycle mechanical maintenance and safety inspection within 72 hours, driving without a valid registration tags, and unauthorized purchase of a motorcycle. On 15 January 1973, your previous NJP sentence was vacated. On 2 April 1973, you received a fourth NJP for two instances of being absent from appointed place of duty, and disobeying a lawful order. On 16 April 1973, you received a fifth NJP for disrespect towards a noncommissioned officer. On 14 May 1973, you received a sixth NJP for failing to obey a lawful order. On 2 July 1973, you began a period of UA which lasted seven days and 10 minutes. On 15 July 1973, you began a second period of UA which lasted 11 hours and 10 minutes.

On 18 July 1973, you were convicted by summary court martial (SCM) for a period of UA. You were sentenced to restriction for 30 days and forfeiture of pay. On 5 January 1974, you were formally counseled by your commanding officer (CO) for personal deficiencies including your lack in certain areas of personal behavior, aptitude, and attitude. You were advised that failure to take corrective action could result on administrative separation. On 17 January 1974, you began a third period of UA which lasted 12 days, 2 hours, and 30 minutes. On 4 February 1974, your commanding officer requested an administrative discharge board (ADB). On 5 February 1974, you received a seventh NJP for a period of UA. On 1 March 1974, you were apprehended by civil authorities and charged with possession of marijuana and amphetamines. On 4 March 1974, you were notified of the initiation of administrative separation proceedings by reason of unfitness due to frequent involvement with military authorities, at which point, you elected to exercise all your procedural rights. On 14 March 1974, your CO recommended an other than honorable (OTH) discharge characterization of service by reason of unfitness due to frequent involvement with military authorities. On 23 April 1974, the ADB recommended an OTH discharge by reason of unfitness due to frequent involvement with military authorities. On 25 April 1974, your administrative separation proceedings were determined to be sufficient in law and fact. On 29 April 1974, the discharge authority approved and ordered an OTH discharge by reason of unfitness due to frequent involvement with military authorities. On 10 May 1974, you were 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 contentions that the reasons for your discharge from service were personal and in no way affected your ability to perform as a Marine and that you were a victim of constant harassment by your superiors. In addition, the Board considered your character statement of support submitted with your application. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your repeated misconduct, as evidenced by your NJPs, and SCM, outweighed these mitigating factors. In making this finding, the Board concluded your record of misconduct showed a complete disregard for military authority and regulations. Further, the Board found no evidence to support your assertions of harassment. 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 the 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

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Executive Director

Signed by: █