



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

█  
Docket No: 816-22  
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 9 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 December 1976. On 26 July 1977, you went into an unauthorized absence (UA) status. On 24 October 1977, civil authorities charged you with intentionally pointing a firearm and carrying a concealed weapon. On 25 October 1977, you pled guilty to the offenses charged. On 28 October 1977, civil authorities returned you to military control after being in a UA status for 94 days. On 14 November 1977, you requested a good of the service (GOS) discharge in lieu of trial by court-martial for being in an unauthorized absence (UA) status for 94 days. Prior to submitting this request, you conferred with a qualified military lawyer, at which time you were advised of your rights and warned of the

probable adverse consequences of accepting such a discharge. Your request was granted and your commanding officer (CO) was directed to issue an other than honorable (OTH) discharge for the good of the service. As a result of this action, you were spared the stigma of a court-martial conviction, as well as the potential penalties of such a punitive discharge. On 6 December 1977, you were so discharged.

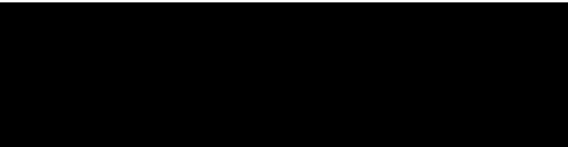
The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to your desire to upgrade your discharge and contentions that your discharge was unjust because you were discharged due to being in a bar fight and you did not receive a hearing. The Board noted that the record contains documented evidence, which is contrary to your contentions. The record clearly shows that on 14 November 1977, you requested a good of the service (GOS) discharge to escape trial by court-martial for being in an unauthorized absence (UA) status for 94 days.

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 civil conviction and request for GOS discharge, outweighed these mitigating factors. As a result, when weighing the seriousness of your misconduct against your active duty service, 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,

3/21/2022

A large black rectangular redaction box covering the signature area.

Executive Director

A black rectangular redaction box covering the name of the Executive Director.