



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: 0997-22
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 11 April 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).

You enlisted in the U.S. Marine Corps and began a period of active duty on 4 November 1974. On 31 January 1975, you reported to █, at █, █ as a student. On 22 May 1975, you transferred from said duty station en route to █, at █. On 3 June 1975, you failed to report to your command and remained in an unauthorized absence status (UA) until you were apprehended on 3 October 1975. On 21 October 1975, you requested to be discharged for the good of the service (GOS) with an other than honorable (OTH) characterization of service to avoid trial by court-martial for your aforementioned UA. On 12 November 1975, a staff judge advocate (SJA) reviewed the proceedings of your case and found they were sufficient in law in fact. Further, a document from your Defense Counsel - signed by you authorizing the release of the information stated, "SNM says he will go UA again as soon as possible. SNM's grandmother is seriously ill and his wife is pregnant by another man. SNM says that he doesn't feel he can function in the Marine Corps."

On 14 November 1975, the Discharge Authority approved your request and directed you be discharged with an OTH for the GOS. On 18 November 1975, 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. The Board also considered your contentions that; (1) you were young and started drinking long before you enlisted, (2) when you returned home you fell back into your old ways and started drinking again, and (3) you ended up drunk all of the time and did not make it back to your duty station, causing you to be UA.” Additionally, the Board noted character of service is based, in part, on proficiency and conduct trait averages which are computed from marks assigned during periodic evaluations. Your proficiency and conduct averages were 2.0 and 2.1 respectively. 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 period of UA totaling 122 days, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded it showed a complete disregard for military authority and regulations. Further, the Board took into consideration that you already received significant mitigation when the Marine Corps accepted your request to be discharged with an OTH in order to avoid trial by court-martial. As a result, the Board concluded that your conduct constituted a significant departure from that expected of a Marine and continues to warrant an OTH characterization. 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,

4/28/2022

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Executive Director
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