



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: 2687-22

Ref: Signature date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 9 May 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).

You enlisted in the Marine Corps and began a period of active duty on 17 August 1956. On 26 August 1957, you began a period of unauthorized absence (UA) which lasted one day, 6 hours, and 59 minutes and resulted in your apprehension by civil authorities. On 2 September 1957, you began a second period of UA which lasted 25 days, 9 hours, and 59 minutes, and resulted in your apprehension by military authorities. On 22 October 1957, you were convicted by special court martial (SPCM) for the two periods of UA. You were sentenced to reduction to the rank of E-1, confinement at hard labor, and forfeiture of pay. On 23 July 1959, you began a third period of UA which lasted 10 hours and 25 minutes. The following day, you received nonjudicial punishment (NJP) for that period of UA. On 18 February 1960, you began a fourth period of UA which lasted 3 hours and 59 minutes. On 25 February 1960, you received a second NJP for the period of UA. On 31 May 1960, you began a fifth period of UA which lasted 4 hours and 39 minutes. On the same date, you received a third NJP for that period of UA. On 3 August 1960, you began a sixth period of UA which lasted 17 days. On 17 October 1960, you were convicted

by another SPCM for the aforementioned period of UA. You were sentenced to six months confinement at hard labor (three months suspended) and six months forfeiture of pay (three months suspended). On 19 April 1961, you were discharged with a General (Under Honorable Conditions) characterization of service at the end of you enlistment.

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 you are seeking a discharge upgrade with the intent to qualify for veteran's tax relief. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

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 NJPs and SPCMs, 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. As a result, the Board concluded significant negative aspects of your service outweighed the positive aspects and continues to warrant a General (Under Honorable Conditions) characterization. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded 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 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,

5/27/2022

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Executive Director
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