



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

██████████
Docket No: 2790-22
8429-82
Ref: Signature Date



Dear ██████████

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 you did not file your application in a timely manner, the statute of limitations was waived in the interests of justice. A three-member panel of the Board, sitting in executive session, considered your application on 29 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 this 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 and entered a period of active duty in the Marine Corps on 7 February 1974. Your service medical record indicates that, on 4 November 1974, you were treated for a "penetrating wound, left leg." The record further states, "[p]atient ran leg into ammo box on range resulting in injury, cleaned and betadine, steri-strip applied, no ligament damage noted." On 25 November 1974, you received nonjudicial punishment (NJP) for being absent from your appointed place of duty at company formation and for disobeying a lawful order in violation of Articles 86 and 91, Uniform Code of Military Justice (UCMJ). You entered a period of unauthorized absence (UA) from 9 January 1975 to 12 August 1975 for 215 days. On 25 August 1975, you submitted a request for discharge to escape court martial. You were discharged, on 10 September 1975, with an Other Than Honorable (OTH) characterization of service.

You contend that you were shot in the leg due to a training accident, did not receive adequate medical treatment, and remained home to recover with your mother as your caregiver after your leave expired. You state that because you are an African American, you experienced medical racism and were not properly treated. You state medical racism is the disparate treatment of people of color by medical personnel, including medical professionals downplaying and devaluing the pain of the patients of color. You further state you were on the range making targets when a stray bullet ricocheted and hit you in the left leg, causing injury to your tibia and vein. You contend the wound did not heal properly and the only medical attention you received were regular dressing changes and cleaning the wound, which was inadequate. You provided post-service clemency evidence for the Board's consideration that included advocacy letters.

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 noted above and desire to upgrade your discharge. In its deliberations, the Board noted you did not provide any civilian medical records pertaining to the treatment you state you received while in a UA status.

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 NJP and substantial period of UA, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your actions showed a complete disregard for military authority and regulations. Further, the Board was not persuaded by your assertions of mistreatment based on medical records that showed you did not suffer from a gunshot wound and were properly treated for a laceration to your leg. Finally, the Board took into consideration your personal statement submitted in conjunction with your administrative separation proceedings. In this statement, you assert that you are requesting separation because you are unable to "give the Marine Corps wants of a man" and raised no issues related to mistreatment. In fact, you stated, "I could never seem to get anything done when I had any problems... I don't feel any longer I can put up with it.... I want to make a career out of it but now I just can't do it." These factors led the Board to find there was insufficient evidence of mistreatment as alleged. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Marine and continues to warrant an OTH 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 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,

5/16/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]