



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: 2903-22

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 13 June 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 9 August 1951. From a period beginning on 21 December 1951 to 14 February 1952, you began three periods of unauthorized absence (UA) adding to a total of 36 days and 54 minutes. On 29 February 1952, you were convicted by special court martial (SPCM) for three periods of UA and two instances of breaking restriction. You were sentenced to confinement at hard labor and forfeiture of pay. On 11 April 1952, you began a fourth period of UA which lasted 17 days which resulted in your apprehension by military authorities. From a period beginning on 3 September 1952 to 2 August 1953, you were deployed in Korea. On 8 June 1953, non-judicial punishment was imposed on

you for disobedience of orders. On 25 October 1953, you began a period of UA which lasted ten days and 30 minutes. On 21 November 1953, you were convicted by summary court martial (SCM) for a period of UA. You were sentenced to confinement at hard labor, and forfeiture of pay. On 5 May 1954, you were convicted by SPCM for being improperly dressed and disrespect towards an officer. You were sentenced to a bad conduct discharge (BCD), and forfeiture of pay. On 16 June 1954, a Naval Review Board remitted the execution of your BCD. On 2 July 1954, you declined your right for restoration and clemency. On 8 July 1954, a Local Clemency Board recommended that you be administratively separated from service following the completion of your confinement sentence. On 27 July 1954, your commanding officer recommended an undesirable discharge characterization of service by reason of unfitness. On 30 July 1954, 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 desire for an upgrade to your discharge and to go in front of the Board and explain the circumstances surrounding your discharge. You contend that you were unfairly separated from the Marine Corps, that you served honorably in Korea, that you performed your duties as ordered by your superiors, and suffered from a personality conflict with a junior officer. 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, SCM, and SPCMs outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard for military authority and regulations. Further, the Board noted that most of your misconduct involved behavior unrelated to a personality conflict with a junior officer and spanned most of your active duty service. Finally, the Board considered that you already received a large measure of clemency from the Navy Review Board decision to remit your BCD. 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 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, _____

7/4/2022

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Executive Director

Signed by: █