



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: 3364-22

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 6 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).

You enlisted in the Marine Corps and began a period of active duty on 27 February 1970. On 21 September 1970, you began a period of unauthorized absence (UA) which lasted 325 days and resulted in your apprehension by civil authorities. On 12 August 1971, you were placed in confinement for 43 days. On 4 October 1971, you began a second period of UA which lasted 383 days. On 22 October 1972, you were placed in confinement for one day. On 20 December 1972, you were convicted by general court martial (GCM) for two periods of UA. You were sentenced to a Bad Conduct Discharge (BCD), reduction to the rank of E-1, confinement at hard labor, and forfeiture of pay. On 23 October 1972, you were placed in confinement for 193 days. On 7 February 1973, the discharge authority approved your sentence. You subsequently returned to duty, on 21 May 1973, after completing your period of confinement. On 30 September 1976, you were discharged with a General (Under Honorable Conditions) discharge characterization of service by reason of voluntary release or transfer to another component.

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 a discharge upgrade and contentions that the discharge characterization of service you received was unjust since you were restored into regular active duty. 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 GCM and multiple periods of UA, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact it had on the good order and discipline of your unit. While the Board considered your post-GCM performance, when weighing the totality of your record against your history of misconduct, the Board concluded significant negative aspects of your service outweighed the positive aspects and continue to warrant a General (Under Honorable Conditions) characterization. Further, the Board noted you already received a large measure of mitigation for your misconduct when your BCD sentence was remitted. Therefore, 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,

6/29/2022

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Executive Director

Signed by: █