



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: 3541-22
Ref: Signature date

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Dear █

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 12 October 1970. On 5 April 1974, you began a period of unauthorized absence (UA) which lasted 25 minutes. On 11 April 1974, you received nonjudicial punishment (NJP) for a period of UA, disobeying a lawful order, and possession of a controlled substance-marijuana. On 30 April 1974, you were counseled for poor attitude, low conduct, and proficiency marks. You were advised that failure to take corrective action could result in administrative separation. On 5 May 1974, you began a second period of UA which lasted 1 hour and 50 minutes. On 14 May 1974, you received a second NJP for two instances of failure to obey a lawful order, disrespect towards a senior

noncommissioned officer (NCO), and a period of UA. On the same date, the suspension of a portion of your previous NJP was vacated. On 15 May 1974, you were counseled for poor attitude, refusal to perform maintenance, conflict with other marines, and unsatisfactory appearance and military bearing. You were advised that failure to take corrective action could result in administrative separation. On 30 May 1974, a medical officer diagnosed you with character disorder, impulsive type, ETPE. On 2 July 1974, you were notified of the initiation of administrative separation proceedings by reason of character and behavior disorder. On 3 July 1974, you received a third NJP for threatening an NCO with contempt, assault of a NCO, and falsifying a signature on restriction papers. On the same date, your commanding officer recommended that you be administratively separated from the Marine Corps by reason of unsuitability due to severe character disorder. On 25 July 1974, the discharge authority approved and ordered a General (Under Honorable Conditions) discharge characterization of service by reason of unsuitability. On 5 August 1974, 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 a discharge upgrade, promotion to E-5, and an apology along with your contentions that your separation orders were not signed due to a congressional investigation, that you reported rushed, and lackadaisical maintenance performed on an aircraft that was later lost, that three different incidents were reported with the same aircraft including an accidental ejection through canopy, and that there were no safety stand down as a result of these incidents. 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, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your conduct had on the good order and discipline of your unit. Further, the Board considered the multiple counselings you received to correct your conduct deficiencies. Finally, the Board found no evidence to substantiate your assertions of mistreatment or reprisal. Therefore, they were not persuaded by your arguments of injustice. Ultimately, the Board found that you likely already received a large measure of clemency from the Marine Corps when they assigned you a General (Under Honorable Conditions) characterization despite a record of misconduct that qualified for an Other Than Honorable characterization. As a result, the Board concluded significant negative aspects of your active duty service outweighed the positive aspects and continue 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,

7/4/2022

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Executive Director

Signed by: █