



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: 4326-22

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 11 July 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 28 May 1968. On 21 June 1968, you began a period of unauthorized absence (UA) which lasted 6 hours and 15 minutes. That same day, you received nonjudicial punishment (NJP) for that period of UA. On 3 July 1968, you began a second period of UA ended in your apprehension by civil authorities. On 6 December 1968, you were convicted by special court martial (SPCM) for that period of UA. You were sentenced to confinement at hard labor, and forfeiture of pay. On 23 December 1968, you began a third period of UA which lasted until 17 May 1969 and resulted in your apprehension by civilian authorities. On 8 July 1969, you were convicted by SPCM for that period of UA and escaping lawful confinement. You were sentenced to a Bad Conduct Discharge (BCD), confinement at hard labor, and forfeiture of pay. On 5 August 1969, your administrative separation proceedings were determined to be sufficient in law and fact. On 29 August 1969, the Navy Court of Military Review approved and affirmed your SPCM sentence. On 7 November 1969, you elected to waive your right to restoration and clemency. Subsequently, on 25

November 1969, you were discharged with a BCD characterization of service by reason of SPCM conviction.

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 general contention that your discharge was erroneous and unjust. You specifically cited President Bill Clinton as the reason why you believe an error or injustice exists in your record but provided no further explanation. 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 NJP and SPCMs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and noted the multiple lengthy periods of UA in your record. Further, the Board considered the discrediting effect your apprehensions by civilian authorities had on the Marine Corps. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Marine and continues to warrant a BCD. 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,

7/29/2022

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Deputy Director

Signed by: █