



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: 6502-22
Ref: Signature Date

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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 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 16 November 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, 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 entered active duty in the Marine Corps on 1 May 1961. On 14 June 1962, a special court-martial (SPCM) convicted you of sleeping on post and breaking restriction. On 23 November 1962, a summary court-martial (SCM) convicted you of incapacitated for the performance of duty. On 1 July 1963, you received non-judicial punishment (NJP) for incapacitated for the performance of duty. On 4 September 1963, a SPCM convicted you of two specifications of assault, larceny from another Marine, and communicating a threat. On 10 October 1963, a SCM convicted you of two specifications of assault. On 19 July 1965, you received NJP for operating a vehicle in a reckless manner causing an accident. As a result of your misconduct and performance issues, your final conduct and proficiency marks at discharge were 3.6. On 25 March 1966, you were released from active duty, received a General (Under Honorable Conditions) characterization of service based on your record, and transferred to the Marine Corps Reserve.

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 to upgrade your discharge and contentions you were not guilty of

the court-martial charges and, post-discharge, became a member of the American Legion, the Marine Corps Legion Patriot Detachment, and contribute to the Marine Corps Heritage Foundation. For purposes of clemency and equity consideration, the Board noted you provided a personal statement but no supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your record of active duty service, as evidenced by your two NJPs, two SPCMs, two SCMs, and final trait average, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded it showed a complete disregard for military authority and regulations. The Board noted that there is no evidence in your record, and you submitted none, to support your contention of not being guilty of the court-martial charges. As a result, the Board determined significant negative aspects of your active duty service outweigh the positive aspects and continue to warrant a General (Under Honorable Conditions) characterization. While the Board commends your post-discharge participation in the various military organizations, even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting an upgraded characterization of service as a matter of clemency or equity. 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,

12/7/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]