



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

█  
Docket No. 7765-22  
Ref: Signature Date



Dear Petitioner:

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 20 January 2023. 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 enlisted in the Marine Corps and began a period of active service on 2 July 1974. During the period of 10 July 1974 to 23 October 1975, you received non-judicial punishment (NJP) on five occasions for the following charges: disobedience of a lawful order, two specifications of assault, unauthorized absence (UA), two specifications of failure to obey a lawful order, and disrespect in language towards your superior non-commissioned officer. On 23 October 1975, you were counseled for your substandard conduct/performance, poor attitude, and lack of discipline. On 10 December 1976, you were convicted at a summary court martial (SCM) for violation of a lawful regulation for the possession of phencyclidine (PCP). On 7 February 1977, administrative separation proceedings were initiated due to your misconduct by reason of frequent involvement with military and civil authorities, at which point, you waived your right to consult with counsel and to a review of your case by an administrative discharge board (ADB). Your commanding officer recommended your separation with an Other Than Honorable (OTH) character of service. The separation authority concurred with your commanding officer's

recommendation and directed your separation. On 28 March 1977, you were discharged with an OTH character of service by reason of frequent involvement with civil and military authorities.

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 change your character of service and contentions that there is no evidence that you did anything wrong, you are 66 years old, and you would love to have an Honorable character of service. For purposes of clemency and equity consideration, the Board noted you did not provide 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 misconduct, as evidenced by your NJPs and SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. Further, the Board noted that you did not provide any evidence to substantiate your contentions. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Sailor and continues to warrant an OTH characterization. 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 granting you the relief you requested or granting relief 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,

2/10/2023

