



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

█  
Docket No. 8817-22  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 6 February 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 entered active duty in the Marine Corps Reserve on 27 June 1974. On 14 January 1975, a Medical Evaluation Board (MEB) diagnosed you with a Collateral Ligament Strain and an Osteochondral fracture, weight-bearing portion, lateral femoral condyle. The MEB placed you on limited duty for six months.

On 20 July 1975, you received non-judicial punishment (NJP) for absence from appointed place of duty. On 21 July 1975, the MEB found you unfit for duty and referred you to the Physical Evaluation Board (PEB). On 1 August 1975, the PEB determined you were not fit for duty and recommended separation from the Marine Corps due to a Physical Disability with severance pay. On 16 August 1975, you received NJP for two specification of absence from appointed place of duty. On 15 September 1975, you were released from active duty due to a physical disability and received a General (Under Honorable Conditions) characterization of service. Your final conduct mark at discharge was 3.8.

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 contention you received a General discharge due to a medical condition. For purposes of clemency and equity consideration, the Board noted the evidence you provided in support of your application.

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 and final conduct trait average, outweighed these mitigating factors. In making this finding, the Board determined that you did not qualify for an Honorable characterization of service based on your assigned conduct average of 3.8. The Board noted that Marine Corps regulations required a minimum conduct trait average of 4.0 to qualify for a fully Honorable characterization of service. Therefore, the Board determined that you were appropriately awarded a General (Under Honorable Conditions) characterization of service. While the Board considered the fact you were discharged for a disability condition, 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. Ultimately, the Board found that you were appropriately assigned your characterization of service based on your record of misconduct. 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,

2/15/2023

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Executive Director

Signed by: █