



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. 0428-23

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 27 March 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, 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 8 November 1966. On 26 June 1967, you began a period of unauthorized absence (UA) which lasted 18 days and resulted in nonjudicial punishment (NJP) on 15 August 1967. On 31 August 1967, you began a second period of UA which lasted 21 days. On 6 November 1967, you were convicted by special court martial (SPCM) for a period of UA, breaking restrictions, and two instances of failure to report to your prescribed place of duty. You were sentenced to reduction to the inferior grade of E-1, confinement at hard labor, and forfeiture of pay. On 29 September 1968, you began a third period of UA which lasted 32 days. On 11 December 1968, you began a fourth period of UA

which lasted four days and resulted in your apprehension. On 27 January 1969, you received a second NJP for failure to report to your prescribed place of duty, and disobeying a lawful order. On 16 March 1969, you were convicted by SPCM for the two aforementioned periods of UA. You were sentenced to confinement at hard labor, and forfeiture of pay. On 10 April 1970, you were discharged with a General (Under Honorable Conditions) discharge characterization by reason of completion of active duty service. Your final proficiency and conduct trait averages were 3.6 and 3.7, respectively.

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 contention that you are a combat veteran in good standing in all respects. 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 SPCMs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact it had on the good order and discipline of your unit. Additionally, the Board noted your conduct trait average was insufficient to qualify for an Honorable characterization of service. As a result, the Board concluded significant negative aspects of your service outweighs the positive aspects and continues to warrant a General (Under Honorable Conditions) 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 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,

4/14/2023

