



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. 0455-22
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 30 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 this 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 United States Marine Corps and commenced a period of active duty on 27 November 1967. On 8 September 1968, you were sent on temporary duty to Vietnam. On 28 January 1969, you received non-judicial punishment (NJP) for violating Uniform Code of Military Justice (UCMJ) Article 89, for behaving with disrespect towards your superior officer. You were separated from the Marine Corps, on 5 August 1969, by reason of "Convenience of the Government" with a General (Under Honorable Conditions) (GEN) characterization of service and assigned an RE- 4 reenlistment code. Your final proficiency (PRO) and conduct (CON) trait averages were 3.9.

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 contentions that you were unaware that you received a General (Under Honorable Conditions) characterization of service and your service was not dishonorable. For purposes of clemency and equity

consideration, the Board noted that you did not provide advocacy letters or documentation of post-service accomplishments.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your military record supports the GEN characterization of service. Per MARCORSEP&RETMAN, Par 6012.1a (305), you were separated “for the convenience of the government.” This regulation directs separation authorities to “[c]haracterize service as honorable, general (under honorable conditions), or uncharacterized” based on the final PRO/CON trait averages. In order to receive an Honorable discharge, a service member must have final performance and conduct trait averages of 4.0 or higher. Since your final PRO/CON trait averages were 3.9, respectively, the Board determined you did not rate an Honorable characterization of service. The Board noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. Additionally, the Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. As a result, the Board determined that there was no impropriety or inequity in your discharge, and your service record merited your receipt of a GEN discharge. Therefore, 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.

The Board wanted to highlight that a GEN discharge is not a dishonorable discharge as you allude to in your application. A GEN discharge carries with it almost all benefits and entitlements that are provided under an Honorable characterization and should not preclude you from receipt of most veterans’ benefits.

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,

2/12/2023

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Executive Director
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