



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

█  
Docket No. 6048-23

Ref: Signature Date



Dear █

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 you did not file your application in a timely manner, the Board waived the statute of limitation in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 18 September 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).

On 27 February 1970, you enlisted in the U.S. Marine Corps and began a period of active duty. On 20 December 1972, you were found guilty at a general courts-martial (GCM) of two specifications of unauthorized absence (UA) totaling 709 days and were sentenced to confinement at hard labor for 18 months, to forfeit all pay and allowances, to be reduced in rank to E-1, and to a bad conduct discharge (BCD). On 7 February 1973, the Convening Authority approved your punishment but the execution of the BCD, confinement at hard labor in excess of six months and forfeitures of \$150.00 pay per month in excess of six months was suspended for 12 months. Upon your release from confinement you were designated for duty and on 4 May 1973, you were restored to duty. On 24 August 1976, you were assigned to the weight control program. You were subsequently counseled regarding your assigned RE-3A reenlistment code and discharged on 30 September 1976 with a general under honorable conditions (GEN) characterization of service.

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 Memos. These included, but were not limited to, your desire to upgrade your discharge and contention you're your discharge characterization was unjustified as you were restored to duty. The Board noted you provided a copy of your Certificate of Discharge or Release from Active Duty (DD Form 214), official military personnel file documents, and an FBI (Federal Bureau of Investigation) firearm denial appeal acknowledgment letter for consideration. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrants relief. Further, character of service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your conduct average was 3.6. An average of 4.0 in conduct was required at the time of your separation for a fully honorable characterization of service. Additionally, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. 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 is attached 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,

10/3/2023

█

Executive Director

Signed by: █