



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

█
Docket No. 7458-23

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 13 October 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 Marine Corps and began a period of active duty on 9 February 1982. After a period of Honorable service that included non-judicial punishments in January 1983 and March 1983, you immediately reenlisted on 11 September 1984. On 23 April 1986, you were found guilty at Special Court-Martial (SPCM) of adultery that occurred between June 1985 and January 1986. On 6 January 1987, you were again found guilty at a SPCM, this time for a 28-day period of unauthorized absence. On 26 March 1987, you were notified of administrative separation proceedings for pattern of misconduct. You waived your rights to consult with counsel and appear before an Administrative Separation Board. Ultimately, you were discharged, on 6 April 1987, with an Other than Honorable (OTH) characterization of service.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB). The NDRB denied your request, on 15 January 1991, after determining your discharge was proper as issued.

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 discharge character of service and to receive a Good Conduct Medal. You contend that: (1) your first enlistment in the USMC was Honorable, (2) in 1986, your grandfather became seriously ill and unable to work, (3) Your grandmother and mother contacted your Commanding Officer (CO), asking that you


be sent home to work the farm, (4) your CO told you, if you went UA for 29 days and returned on the 30th day, you would not be "AWOL," but just absent without leave, and could be discharged, (5) you were not proud of your decision, but took the advice and went UA, (6) your grandfather died, and it took five years to sell the farm and set your grandmother and mother up in a small house in town, and (7) you still serve by working with the VFW, American Legion, and AMVETS. For purposes of clemency and equity consideration, the Board noted you provided a personal statement but no advocacy letters or documents supporting your post-service activities or accomplishments.

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 SPCMs, 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. The Board also considered the negative impact your conduct likely had on the good order and discipline of your unit. Further, the Board noted you were given an opportunity to continue your service after your first SPCM but continued to commit misconduct. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization.

Finally, regarding your request for a Good Conduct Medal, as evidenced by the chronology of your service, the Board concluded you did not accrue the three years of continuous good conduct necessary to earn the award. Therefore, while the Board was sympathetic to your family circumstances and your stated passion for the Marine Corps, 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,


10/22/2023
