



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

█  
Docket No. 7890-23  
Ref: Signature Date

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Dear █

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 11 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 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 with the Marine Corps on 12 November 1969. On 18 August 1970, a summary court-martial (SCM) convicted you of unauthorized absence (UA) totaling 23 days. Starting on 15 October 1970, you went into a UA status until apprehended and returned to military authorities on 5 December 1970. On 16 December 1970, you submitted a written request for discharge for the good of the service (GOS) to avoid trial by court-martial for the aforementioned period of UA. Prior to submitting this request, you conferred with a qualified military lawyer, at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Your request was granted and your commanding officer (CO) was directed to issue an Other Than Honorable (OTH) discharge for the GOS. On 12 January 1971, you were so discharged.

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 contentions that you were young and did not understand the circumstances of receiving an OTH discharge, you went UA because your grandfather was dying, and you are currently dying from cancer.

For purposes of clemency and equity consideration, the Board noted you provided post-service medical records but no 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 SCM and request for GOS discharge, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the negative impact your conduct had on the good order and discipline of your unit. Further, the Board noted that there is no evidence in your record, and you submitted none, to substantiate your contention of going UA due the death of your grandfather. Additionally, the Board noted that your record clearly reflected your misconduct and the evidence of record did not show that you were not responsible for your conduct or that you should not be held accountable for your actions. Finally, the Board also noted that the misconduct which led to your request to be discharged in lieu of trial by court-martial was substantial and, more likely than not, would have resulted in a punitive discharge and extensive punishment at a court-martial. Therefore, the Board determined you already received a large measure of clemency when the Marine Corps agreed to administratively separate you for the GOS; thereby sparing you the stigma of a court-martial conviction and likely punitive discharge. 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 of service. While the Board carefully considered the evidence you provided in mitigation and empathizes with your current medical 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 concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. Accordingly, given the totality of the circumstances, the Board determined 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,

10/28/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]