



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. 1950-24
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 2 August 2024. 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 enlisted in the Marine Corps and commenced a period of active duty on 28 January 1972. Between 17 February 1972 to 27 October 1972, you received non-judicial punishment (NJP) on five occasions for failure to obey a lawful order, wrongfully and unlawfully offering another Marine \$20 to influence how a practical exam was graded, sleeping on fire watch, unauthorized absence (UA) from your place of duty, and UA. On 7 May 1973, you were convicted at a summary court martial (SCM) for five specifications of UA, and failure to obey a lawful order.

Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to frequent involvement with military authorities. You waived your right to consult with counsel and a hearing of your case before an administrative discharge board. Your commanding officer recommended your separation from the Marine Corps with an undesirable character of service. In the meantime, you received your sixth NJP for UA and were convicted by civilian authorities for larceny and possessing a false driver's license. Subsequently, the separation authority approved your separation with an Other Than Honorable (OTH) character of service by reason of misconduct due to frequent involvement with military authorities. On

6 August 1973, you were so discharged.

You previously applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request, on 10 July 1974, after concluding 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 upgrade your characterization of service and contentions that you were forced to join the military, you were not fit for the military, and you had anxiety and depression, which led to drug use. The Board noted you decided not to respond to the Board's request for supporting evidence of your claim that you suffered from a mental health condition. For purposes of clemency and equity consideration, the Board noted you did not provide 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, 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. Further, the Board noted you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct. Finally, the Board observed that you provided no evidence, other than your statement, to substantiate your contentions.

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. 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,

8/27/2024

