



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. 3084-24
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 10 June 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 active duty on 8 December 1953. On 15 June 1954, you received non-judicial punishment (NJP) for six days of unauthorized absence (UA), being out of bounds beyond the three hundred fifty-mile limit, and making a false official statement. On 6 October 1954, you received NJP for two days of UA. On 13 December 1954, you pleaded guilty at Summary Court-martial (SCM) to three days of UA. On 29 March 1955, you were found guilty at SCM of failure to obey a lawful general regulation.

On 5 July 1955, you commenced a period of UA, during which time you were declared a deserter, that ended in your apprehension by civil authorities on 16 September 1955. On 18 September 1955, you escaped confinement and commenced a period of UA that ended in your apprehension by civil authorities on 21 September 1955.

On 8 November 1955, you were convicted by a general court-martial (GCM) of escaping from lawful confinement on 18 September 1955 and two specifications of desertion, from 5 July 1955 to 16 September 1955 and from 18 September 1955 to 29 September 1955. You were sentenced

to six-months of confinement at hard labor and a Bad Conduct Discharge (BCD). Subsequently, the findings and sentence in your GCM were affirmed and you were issued a BCD on 30 March 1956.

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 characterization of service and your contentions that you committed UA because you were denied leave after your mother passed away from leukemia, you needed to transport your juvenile siblings to your grandmother's house, and that your intentions were in the best interest of your family. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs, SCMs, and GCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your conduct had on the good order and discipline of your command. The Board noted that you were given multiple opportunities to address your conduct issues, but you continued to commit misconduct, which ultimately led to your GCM and BCD. The Board further noted that your testimony during your GCM indicated that you spent your initial period of absence in Maryland with your wife, except one trip to Mobile to take some furniture to your mother, and that, after you escaped confinement, you were heading to Mobile to see your mother who was ill. Therefore, the Board was not persuaded by your contention that you committed desertion and escaped confinement to transport your siblings to your grandmother after your mother passed away.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant a BCD 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,

6/27/2024

