



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. 4122-24

Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 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 29 April 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, 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 18 April 1972. Between 14 December 1972 and 26 December 1972, you had three periods of unauthorized absence (UA) totaling six-days. On 27 December 1972, you received nonjudicial punishment (NJP) for three instances of UA. On 23 March 1973, you commenced a fourth period of UA which lasted 14 days and resulted in your second NJP on 20 April 1973. Between 20 August 1973 and 7 October 1973, you had two periods of UA totaling 41 days. On 10 December 1973, you were convicted by special court martial (SPCM) for two instances of UA. You were found guilty and sentenced to a Bad Conduct Discharge (BCD), confinement at hard labor for a period of six weeks, and forfeiture of pay in the amount of \$217.00 for a period of two months. On 17 December 1973, you began another period of UA that ended after a period of 281 days. On 25 September 1974, you were arrested by civil authorities and placed in a two year adult probation period for the offense of theft over \$50.00. After competition of all levels of review, on 10 November 1974, you were discharged with a BCD characterization by reason of SPCM conviction.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for relief. On 13 October 1976, the NDRB denied your request 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 for a discharge upgrade and contention that: (a) you were told your discharge would be changed to Honorable, (b) you lost all your documents and you are not looking for benefits, just your discharge changed like it was promised, (c) you were wrongfully discharged as a young kid and you accepted it, you were picked up as a deserter, was humiliated, locked up in several different places before they finally took you back to █
█, and (d) your command realized they made a mistake and tried to toss you from base without a way back home. 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 these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact it had on the good order and discipline of your unit. The Board noted you provided no evidence, other than your statement, to substantiate your contentions. Therefore, the Board determined you were properly discharged based on your multiple periods of UA.

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. 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 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 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,

5/21/2024

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Executive Director

Signed by: █