



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. 4976-24
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 20 September 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 to 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 13 September 1965 with a pre-service disciplinary history of an offense for reckless driving. Shortly thereafter, you were reassigned to the hospital due to an injury which is documented in your service health records. From 22 through 27 December 1965, you absented yourself without authority from the hospital, your appointed place of duty. Upon your return, you stated that you had gone to your mother's birthday and that you had remained absent due to your cousin's illness and grandfather's death. You indicated that he would be buried on 30 December 1965. You were presumably placed on restriction pending disposition of your misconduct, subsequently broke restriction, and absented yourself again from 3 to 6 January 1966. When you were apprehended by authorities, you claimed to be on convalescent leave; however, you had no pass or leave documents supporting that claim and you were returned to military authority. You immediately absented yourself again on 7 January 1966 and remained absent until your arrest by civil authorities on 25 February 1966. You were held by civil authorities on charges of reckless driving and giving false

information to a police officer. You were convicted on 16 March 1966 and sentenced to nine months civil confinement with a tentative release date of 13 September 1966.

In a statement which you wrote, on or about 26 April 1966, you referenced having written an unanswered letter to your company commander in March 1966, inquiring about your return to military authority and requesting to know what action was planned regarding your situation or, in the alternative, to be released from your obligated service with an undesirable discharge. You explained that your attitude toward discharge was mainly because you were needed at home due to your father's impending incarceration, which would require your mother to relocate. You also inquired into the possibility of a hardship discharge and referenced changes in your personality after having begun your service, stating that your previous sense of honor had been shattered.

On 21 June 1966, you were notified of processing for administrative discharge by reason of conviction by civil authorities, with a recommendation for an undesirable discharge. You elected to waive your rights incident to this notification and made no further statement or objection. A medical evaluation was provided by the civilian jail physician advised that you were mentally and physically qualified for discharge and not receiving any medical treatment during your civil incarceration. You were so discharged on 26 August 1966. Of note, in your 11 months and 14 days of total active service, only three months and 14 days was creditable for pay purposes due to your unauthorized absences during the remainder of that time.

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 change your narrative reason for separation to "Secretarial Authority." You content that post-discharge character and accomplishments warrant consideration of an upgrade to your discharge characterization when considered in conjunction with clemency factors, to include youth, the passage of time, the harshness of your characterization in comparison to the nature of your civil offense, and your purported experience of racially motivated physical assault and maltreatment which contributed to your UA periods. For purposes of clemency and equity consideration, you provided your union membership card, letters from former employers, post-service work product and blueprints, a personal statement, and diverse information pertaining to your work with various producers and artists on screenplays in addition to a museum exhibit.

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 multiple periods of UA and civil conviction, 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. Additionally, the Board was not persuaded by your contentions. Noting that you as the Petitioner bear the burden of proof, the Board found insufficient evidence to support your contentions that your absences were due to racially motivated maltreatment. Rather, while you reference in your personal statement to having been required to clean in an area of the hospital with infectious patients and, thus, to have become infected, the only evidence your service health records reflect regarding an infection was with respect to keeping an injury clean. Additionally, whereas you now state that you absented yourself from the hospital due to fear for your life, the statement you made at the time of your UA from the hospital indicated that you had gone home for your mother's birthday, shortly before the winter holiday period, and had remained absent during that time due to your cousin's

