



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

██████████  
Docket No. 6477-24  
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 9 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 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 17 June 1974. On 11 June 1975, you received non-judicial punishment (NJP) for unauthorized absence (UA) for the period of 6 - 9 June 1975. On 17 February 1976, you were issued an administrative remarks (Page 11) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

However, on 5 May 1976, you were convicted at Special Court-Martial (SPCM) of violating Article 121 of the Uniform Code of Military Justice by stealing a radio tape player from a fellow Marine. You were sentenced to reduction in paygrade to E1, forfeiture of \$125 pay per month for two months, and confinement at hard labor for two months. On 10 May 1976, you were found guilty at base traffic court of driving with a suspended license.

On 12 July 1976, you were transferred to the Marine Corps Reserve upon expiration of your active service obligation and assigned a General (Under Honorable Conditions) (GEN) characterization of service.

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, receive a new DD Form 214 and DD 256 Marine Corps certificate, and add expert rifle and marksman pistol badges to your record. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application including your personal letter to the board, photographs of the various awards, certificates, and accolades you've earned post-discharge, and the plaque indicating your ownership of an insurance agency that earned a small business of the month award in 1996.

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 an NJP and SPCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that your SPCM conviction involved theft from another Marine. The Board determined that such behavior by a service member is contrary to military core values, shows a lack of integrity and concern for your fellow Marines, and is inexcusably detrimental to the mutual trust, among Marines, necessary for the Corps to succeed. The Board also noted that you were given the opportunity to address your conduct issues but you continued to commit misconduct, which ultimately diminished your opportunity to be considered for a more favorable characterization of service. Finally, the Board determined that you already received a large measure of clemency when you were spared a punitive discharge at trial, which your larceny conviction could have warranted, and were allowed to finish your obligation, and transfer to the reserves, with a GEN characterization of service.

As a result, the Board concluded significant negative aspects of your service outweigh the positive aspects and continues to warrant a GEN characterization. While the Board carefully considered the evidence you provided in mitigation and commends you for your post-discharge accomplishments, 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 that your request does not merit relief.

Regarding your request for the addition of the expert rifle and marksman pistol badges to your record, the Board found you have not exhausted all administrative remedies to correct these alleged errors prior to applying to the Board. Therefore, you are redirected to petition Headquarters, U.S. Marine Corps (HQMC) at email: [smb.manpower.mmrp-10@usmc.mil](mailto:smb.manpower.mmrp-10@usmc.mil), regarding this matter.

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,

9/18/2024

