



Docket No. 9525-24
Ref: Signature Date

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 21 February 2025. 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 14 February 1967. On 21 February 1967, you received non-judicial punishment (NJP) for unauthorized absence (UA). On 26 September 1967, you received NJP for failure to obey a lawful order. On 16 November 1967, you commenced a twenty-seven-day period of UA that ended in your surrender on 13 December 1967. On 20 December 1967, your Assignment Restriction request due to your brother's assignment to [REDACTED] was approved and you were deferred from duty in [REDACTED] until 1 August 1968. On 10 January 1968, you were convicted at Special Court-Martial of UA from 16 November 1967 to 13 December 1967. You were sentenced to reduction in rank to E-1, forfeitures, and confinement. On 16 February 1968, you were released from confinement, broke restriction, and commenced a period of UA that ended in your apprehension on 21 January 1969. On 19 April 1969, you wrote to your Senator and contended that your UA was justified, and you needed a psychiatric evaluation.

On 12 May 1969, you were convicted at General Court Martial (GCM) of UA from 16 February 1968 to 21 January 1969 and breaking restriction. You were sentenced to forfeitures, confinement, and a Bad Conduct Discharge (BCD). On 20 June 1968, you received a psychiatric evaluation, were diagnosed with passive-aggressive personality with no evidence of psychosis, psychoneurosis, affective disorder, or organicity, and recommended for an administrative discharge. On 7 August 1969, you requested administrative separation due to Asthma that existed prior to entry and personality disorder. On 8 October 1969, the GCM Convening Authority remitted the unexecuted portion of your sentence; including your BCD. On 9 October 1969, you were discharged with a General (Under Honorable Conditions) (GEN) characterization of service due to physical disability (pre-existing asthma), without severance pay.

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 fifty-five years ago, as a teenager, you were selling inappropriate drugs on base, and that you currently have cancer. Additionally, the Board noted you checked the "Other Mental Health" box on your application but chose not to respond to the 23 September 2024 letter from the Board requesting evidence in support of your claim. 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, SPCM, and GCM, 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. The Board noted that you were given multiple opportunities to address your conduct issues, but you continued to commit misconduct; which led to your GEN discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. Finally, the Board believed that considerable clemency was extended to you when your request for a discharge due to pre-existing Asthma condition was granted and you were fortunate your BCD was not approved.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. 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, _____

3/14/2025

