



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

Docket No. 1622-25
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 20 June 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Marine Corps and commenced active duty on 8 April 1971. On 29 February 1972, you received non-judicial punishment (NJP) for failure to obey a lawful order from a Corporal. On 12 Jun 1972, you received NJP for unauthorized absence (UA). On 21 August 1972, you received NJP for assault and wrongful appropriation of government property. On 1 November 1972, you received NJP for UA. On 16 March 1973, you pleaded guilty at a General Court Martial (GCM) to wrongfully communicating to three Privates a threat to beat them. You were sentenced to forfeitures and confinement at hard labor but your sentence was suspended for one year. On 29 March 1973, you received NJP for willfully disobeying a lawful order from a Staff Sergeant. On 21 May 1973, you received NJP for two specifications of UA

and a uniform violation. Consequently, on 8 June 1973, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of frequent involvement of a discreditable nature with military authorities. You waived your rights to consult counsel, submit a statement, or have your case heard by an administrative discharge board. Your commanding officer recommended a one-year suspension of your discharge provided you did not commit further misconduct. The separation authority concurred and approved your OTH discharge by reason of unfitness but suspended it for one year; contingent upon you refraining from further misconduct.

On 28 August 1973, you were notified of a pending hearing to determine whether the suspension of your discharge should be vacated due to allegations of wrongful use and possession of marijuana. On 4 September 1973, your commanding officer recommended vacating the suspension of your discharge based on your admission of wrongful use and possession of marijuana and your unsatisfactory proficiency and conduct. The separation authority subsequently directed your discharge due to unfitness with an OTH characterization of service. You were so discharged on 7 September 1973.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 18 October 1979, based on their determination that 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 to change your discharge characterization of service and your contentions that you believe you were racially profiled, had a “few” NJPs, were charged with extortion but found not guilty, and later discharged because you were unable to provide information as a “snitch/whistleblower.” For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 without any other additional documentation.

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, GCM, and drug offense, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board also noted that your contention of being found not guilty of extortion was incorrect since you were allowed to plead guilty to the lesser offense of communicating a threat. Further, the Board found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH 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.

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,

7/3/2025

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Executive Director

Signed by: ■