



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

█  
Docket No: 1700-21  
Ref: Signature Date

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█  
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Dear █

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 April 2021. 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 Navy on 5 August 1954. On 23 August 1956, you went into an unauthorized absence (UA) status. On 8 October 1956, after being charged with assault with a deadly weapon, civil authorities released you on bail and returned you to military control. On 19 October 1956, civil authorities convicted you of assault with a deadly weapon for stabbing another Sailor while intoxicated. You were sentenced to a \$250.00 fine. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). The ADB found that you committed misconduct due to civil conviction and recommended you receive an other than honorable (OTH) discharge. The discharge authority concurred with the ADB and directed an OTH discharge by reason of misconduct. On 19 December 1956, you were discharged.

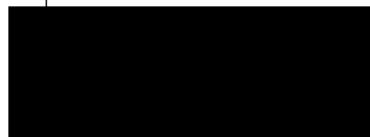
The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to upgrade your discharge and your contentions that your discharge was racially motivated, and you were young and intoxicated when the incident occurred. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your civil conviction, outweighed these mitigating factors. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

In regard to your contention that your discharge was racially motivated, the Board noted that there is no evidence in your record, and you submitted none, to support your contention. The Board also noted that the record shows that you requested an ADB, which found you committed misconduct due to civil conviction and recommended you receive an OTH discharge. Regarding your contention that you were young and intoxicated when the incident occurred. The Board noted that your record clearly reflected your misconduct and the evidence of record did not show that you were not responsible for your conduct or that you should not be held accountable for your actions. The Board also noted that alcohol abuse is not an excuse for misconduct, and disciplinary action and administrative separation are appropriate alcohol related offenses.

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,

4/30/2021

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Executive Director

Signed by:

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