



**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: 5526-21  
Ref: Signature Date



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 the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 18 October 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 and began a period of active duty on 10 November 1972. On 1 May 1974, you commenced a period of unauthorized absence, which was terminated by your apprehension and return to naval control on 17 May 1975, which totaled 381 days. On 9 June 1975, you were examined and found to have been mentally responsible for your actions. On 13 June 1975, you submitted a request for discharge under other than honorable conditions in lieu of trial by court-martial based on your extended unauthorized absence. On 18 June 1975, your commanding officer transmitted your request for discharge to the discharge authority and recommended that it be approved. On 27 June 1975, you were discharged with an other than honorable characterization of service. In 2004, you filed a previous petition with this Board, in which you contended that your youth and immaturity at the time of your service should mitigate your misconduct which led to your discharge. On 9 December 2004, this Board denied your petition.

The Board carefully considered all potentially mitigating factors in your petition to determine whether the interests of justice warrant relief in your case including in accordance with the Wilkie Memo. You contend in your petition that your duty functions and grades should have been considered during your discharge process. You further contend that you sought to leave the Navy because you were exhausted and worked twelve hours a day, seven days a week, in hot dark engine rooms, and you felt that you had no chance of promotion. You stated that you wanted out of the Navy and you wanted out permanently, and that, a year after you left, you were picked up for drunk driving and you were sent back to the service and that is how you were discharged. Finally, you stated that you did not realize at that time what an other than honorable discharge meant, and that your service was good, you had good scores and recommendations, you just could not work non-stop, and the living conditions were barbaric, and that your shipmates were nothing more than criminals.

Based upon its review, the Board concluded the potentially mitigating factors that you raised were insufficient to warrant relief. After careful review of your contentions, the Board concluded that there was insufficient evidence demonstrating there was an error or injustice in your record. With respect to your assertion that you had good scores and recommendations during service, the Board found that your misconduct evidenced by a period of unauthorized absence in excess of a year, and your request for discharge under other than honorable conditions in lieu of trial by court-martial, outweighed the mitigating factors that you submitted. Given the totality of the circumstances, and in light of your serious misconduct, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon the 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,

10/18/2021

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Executive Director

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