



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: 2982-22
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 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 May 2022. 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, 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 National Guard and began a period of active duty on 21 July 1953. On 18 February 1954, you were discharged with an Honorable discharge characterization of service by reason of underage enlistment. On 5 January 1955, you enlisted in the Navy and began a period of active duty. On 14 March 1956, you received nonjudicial punishment (NJP) for making a false official statement by altering your military identification card. On 1 June 1956, you were convicted by summary court martial (SCM) for wrongful appropriation of a Navy vehicle and disobeying a lawful order. You were sentenced to confinement at hard labor and forfeiture of pay. On 16 April 1957, you received a second NJP for being drunk in uniform while in a public place, and possession of two Armed Forces identification cards. On 22 April 1957, you were convicted by SCM for possession of two Armed Forces identification cards and for being drunk in uniform while in a public place. You were sentenced to restrictions for 45 days and forfeiture of pay. On 19 July 1957, you received a third NJP for one period of unauthorized absence and failure to obey a lawful order. On 14 March 1958, you received a fourth NJP for being absence

from your appointed place of duty. On 16 July 1958, you were convicted by civil authorities for stealing one set of hubcaps, at which point, you pled guilty to the charge of theft and were ordered to pay a \$50.00 fine. On 7 August 1958, your commanding officer recommended an undesirable discharge characterization of service by reason of misconduct due to conviction by civil authorities. On 19 August 1958, you received a fifth NJP for willfully damaging government property, willfully damaging a civilian truck, and drunk and disorderly conduct. On 5 September 1958, the discharge authority approved and ordered an undesirable discharge characterization of service by reason of unfitness. On 1 October 1958, 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 contentions that it was your friend who stole the hubcaps while in town, that you never thought that this incident would led you to a conviction by court martial, and that you have remained a productive civil servant since you were discharged. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

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 NJPs and SCMs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and determined it showed a complete disregard for military authority and regulations. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Sailor and continues to warrant an undesirable characterization. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. 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 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,

5/31/2022

