



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

█
Docket No. 7123-22
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 13 January 2023. 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 service on 10 February 1967. On 13 July 1967, you received non-judicial punishment (NJP) for unauthorized absence (UA) from your appointed place of duty and UA. You were convicted by civil authorities, on 29 August 1967, and you served three days in jail for a traffic warrant. On 13 December 1967, you began a period of UA. Subsequently, on 28 December 1967, you missed ships movement. You were again apprehended by civil authorities on 11 February 1968. You began a second period of UA, on 22 April 1968, which ended in apprehension by the Federal Bureau of Investigation (FBI) on 15 July 1968. You were counseled regarding your misconduct on 31 July 1968.

On 14 August 1969, you were convicted at a special court martial (SPCM) for two specifications of UA. You were sentenced to confinement and a Bad Conduct Discharge (BCD). On 30 October 1968, you were discharged with a BCD as a result of your court martial conviction.

On 13 January 1976, you were issued a Correction to DD Form 214, Report of Separation from Active Duty (DD Form 215) pursuant to Presidential Proclamation No. 4313 that granted you a clemency discharge.

You previously applied to the Naval Discharge Review Board (NDRB) with request to adjust your record. The NDRB denied your request to upgrade your character of service, on 23 June 1981, after concluding 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 upgrade your character of service and contentions that you have been denied benefits by the Department of Veterans Affairs due to your prior character of service. 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 these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP, civil offenses, and SPCM, 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. In addition, the Board considered the likely discrediting effect your civil misconduct had on the Navy. The Board further considered that you already received a large measure of clemency when your BCD was changed to a clemency discharge based on Presidential Proclamation 4313. Please note Presidential Proclamation 4313 restored federal and, in most instances, state civil rights which may have been denied due to your less than honorable discharge. It does not, however, affect your current character of service, and does not entitle you to any Veterans Administration benefits. Absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. In reviewing your record, the Board found no such material error or injustice. Therefore, 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,

1/24/2023

[REDACTED]

Executive Director

Signed by: [REDACTED]