



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. 30-23
Ref: Signature Date

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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 reconsideration application on 9 June 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 originally enlisted in the U.S. Navy and entered active duty on 24 July 1961. You immediately reenlisted on both 19 February 1965 and 22 November 1968 following consecutive Honorable periods of service, respectively.

On 16 December 1969, your command issued you a "Page 13" entry (Page 13) documenting being assigned a 2.8 (out of 4.0) rating in "Military Behavior" on your last performance evaluation due you receiving eighteen (18) indebtedness letters. On 13 January 1970, your command issued you a letter concerning debts you incurred in excess of your ability to pay. In order to assist you with paying your debts, your command arranged for your return to your homeport from your deployed ship. The letter advised you that your excessive indebtedness and your failure to honorably satisfy such debts was not compatible with U.S. Navy service. The letter warned you that a failure to discharge such legal debts in an honorable and reasonable

manner could provide grounds for your administrative separation by reason of unfitness.

On 13 January 1970, you provided a letter to your command acknowledging that your indebtedness could be possible grounds for your administrative separation from the Navy. In the letter you also pledged in return for the special consideration given by the Navy to address your indebtedness that you would: (a) seek legal assistance in connection with your indebtedness, (b) liquefy all outstanding legal debts, (c) take all reasonable steps to liquefy your debts, (d) avoid incurring further unreasonable debts, and (e) keep your commanding officer (CO) informed monthly of your progress in resolving your indebtedness. However, your command continued to receive letters of indebtedness from various creditors well into 1971.

On 28 January 1972, pursuant to a bankruptcy petition filed by you in the U.S. District Court for the ██████████ District of ██████████ you were released from all dischargeable debts. According to Court documents, you had previously filed for bankruptcy in 1965 and were also granted a discharge of your debts at such time.

In a letter dated 9 February 1972, your CO advised you that your inefficiency in handling your financial affairs was a discredit to the U.S. Navy. The CO warned you to expect action to be taken should the command receive additional letters of indebtedness.

However, on 11 February 1972, you opened up a revolving charge account at Sears and by June 1972 had racked up an unpaid outstanding balance of approximately \$2,001. As a result, on 12 July 1972, you were notified of administrative separation proceedings by reason of indebtedness. You consulted with counsel and elected your right to request an administrative separation board (Adsep Board).

On 14 July 1972, an Adsep Board convened in your case, and at the Adsep Board you were represented by a Navy Judge Advocate. Following the presentation of evidence and witness testimony, the Adsep Board members unanimously determined that the preponderance of the evidence presented proved you demonstrated a pattern showing dishonorable failure to pay just debts. Subsequent to the misconduct finding, the Adsep Board members recommended that you be separated with a General (Under Honorable Conditions) (GEN) characterization of service.

On 16 August 1972, the Chief of Naval Personnel (CNP) reviewed your case, held your discharge in abeyance, and placed you in a probationary status for twelve months in order to evaluate your potential for continued service. The CNP warned you that any violation of your probation terms could result in an immediate discharge without further consideration by CNP and advised you that your CO would be the sole judge of your probationary performance.

However, your command received a letter of indebtedness from Sears on 23 August 1972 and, on 24 August 1972, local ██████████ authorities notified the command they were in possession of three bad checks made and uttered by you. Given your continued indebtedness, your command vacated your probation and, on 30 August 1972, you were separated from the Navy for unfitness with a GEN discharge characterization and assigned an RE-4 reentry code.

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 for a discharge upgrade and contentions that: (a) you served faithfully for thirteen years, and (b) you would like your GEN discharge to match your two previous honorable discharges. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious to deserve an upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that the record clearly reflected your dishonorable failure to pay your debts was intentional and willful and indicated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your misconduct and disregard for good order in discipline clearly merited your GEN 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,

6/12/2023

