



**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. 672-23  
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 application on 1 May 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You entered active duty with the Navy on 6 July 1980. On 20 January 1982, you received non-judicial punishment (NJP) for willfully disobeying a lawful order and dereliction in the performance of duty. During the period from 23 May 1982 and 22 June 1982, you were in an unauthorized absence (UA) status on three separate occasions totaling 23 days. During the period from 14 July 1982 and 24 October 1982, you received three NJPs for six specifications of absence from appointed place of duty, UA for two days, disrespect toward a superior petty officer, and disrespectful in language and deportment toward a senior petty officer.

On 5 August 1983, you went into a UA status for 11 days. During the period from 22 August 1983 and 5 December 1983, you received two NJPs for two specifications of UA totaling two days.

Subsequently, you were notified of pending administrative separation action by reason of a pattern of misconduct. After you waived your rights, your commanding officer (CO) forwarded your package to the

separation authority (SA) recommending your discharge by reason of misconduct due to a pattern of misconduct with an Other Than Honorable (OTH) characterization of service. The SA approved the CO's recommendation and directed an OTH characterization of service by reason of misconduct due to a pattern of misconduct. On 13 December 1983, you were so 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 contentions that you voluntarily left the Navy due to being a newlywed and desiring to be with your family, you were unaware you were receiving an OTH discharge, you have been married for 41 years, you raised three children and worked on the same job for 35 years, you earned two associates degrees, and you mentor teens and young adults. For purposes of clemency and equity consideration, the Board noted you provided advocacy letters and a personal statement.

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 six NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your conduct had on the good order and discipline of your command. Further, the Board noted you provided no evidence to substantiate your contentions that you voluntarily left the Navy and were unaware you were receiving an OTH characterization. Contrary to your contention, the record clearly shows that you were notified the basis for your administrative separation processing and you acknowledged your characterization of service may be an OTH. Finally, despite your implied arguments that your misconduct was not serious, the Board found that your six NJPs included a litany of offenses that showed a completed disregard for military authority and regulations. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. While the Board carefully considered the evidence you submitted in mitigation, even in light of the Wilkie Memo and reviewing the record liberally and 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. Accordingly, given the totality of the circumstances, the Board determined 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,

5/11/2023

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