



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. 0859-23

Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 27 March 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, 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 26 March 1968. Between 17 April 1969 and 3 November 1970, you received nonjudicial punishment in five occasions for the following offenses: making a false statement, four periods of unauthorized absence (UA) totaling 18 Hours, and 16 minutes, and disobeying a lawful order. Between 10 November 1970 and 12 November 1970, you had two periods of UA totaling 6 hours and 48 minutes. On 25 November 1970, you were convicted by summary court martial (SCM) for the two periods of UA. You were sentenced to reduction to the inferior grade of E-1 (suspended for six months), restriction for 20 days, and performing hard labor without confinement.

Subsequently, you were notified of administrative separation processing for a behavior disorder. On 10 December 1970, you waived your procedural rights. On 21 December 1970, a medical officer diagnosed you with a personality disorder. On 8 January 1971, you began a seventh period of UA which lasted 2 hours and 15 minutes and resulted on your sixth NJP on 29 January 1971. On the same date, your previously suspended SCM sentence pertaining to your reduction to E-1 was vacated.

On 22 February 1971, your commanding officer recommended you be discharged by reason of unfitness due to frequent involvement. Subsequently, the separation authority approved the recommendation and ordered a General (Under Honorable Conditions) discharge characterization by reason of frequent involvement. On 2 March 1971, 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 for a discharge upgrade and contentions that your chief petty officer was going through a divorce, he held a grudge against you for having a girlfriend, he would not approve your leave, and you left to see your girlfriend. 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 NJPs and SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact it had on the good order and discipline of your unit. Further, the Board noted you provided no evidence to substantiate your contentions. Regardless, the Board was not convinced by your arguments based on your record of misconduct that involved multiple incidents of UA. Additionally, the Board also noted that you continued to commit misconduct after you were notified of administrative separation processing. Ultimately, the Board determined you were fortunate to receive a General (Under Honorable Conditions) characterization based on your extensive record of misconduct. As a result, the Board concluded significant negative aspects of your service outweighs the positive aspects and continues to warrant a General (Under Honorable Conditions) characterization. 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 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,

4/14/2023

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Executive Director

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