



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

█
Docket No. 1314-23
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 26 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, 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 September 1979. Between 26 March 1980 and 18 September 1981, you received nonjudicial punishment (NJP) in four occasions for failure to report to appointed place of duty, two instances of failure to obey a lawful order, disrespectful in language, disorderly in station, disrespectful in language towards a noncommissioned officer (NCO), and period of unauthorized absence (UA) which lasted eight-days.

On 19 November 1981, you began a second period of UA which lasted four-days. On 24 November 1981, you began a third period of UA which lasted 55 days, and resulted on missing ship movement. On 3 May 1982, you received a fifth NJP for assault on an NCO. On 18 May 1982, you began a fourth period of UA which lasted 27 days. On 14 June 1982, you began a fifth period of UA which lasted 128 days and resulted in your apprehension by civil authorities. On 28 October 1982, you began a sixth period of UA which lasted 15 days and

resulted in your apprehension by the █ Police. Subsequently, you were charged with four counts of forgery, four counts of false uttering checks, and four counts of obtaining money by false pretenses. You were also apprehended by the Portsmouth Police and charged with three counts of forgery and three counts of false uttering checks.

On 23 December 1982, you began a seventh period of you which lasted 125 days. On 14 January 1983, you were convicted by civil authorities for forgery and uttering. You were sentenced to confinement, supervised probation, and making full restitution.

On 13 May 1983, you began an eight period of UA as a result of you being placed in civil confinement. As a result, on 23 May 1983, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to civil conviction. On 26 May 1983, you decided to exercise your right to a hearing by an Administrative Discharge Board (ADB). On 10 June 1983, the ADB voted (3) to (0) that you committed misconduct due to civil conviction. On 20 August 1983, your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to civil conviction. On 11 September 1983, the separation authority approved and ordered an OTH discharge characterization by reason of misconduct due to civil conviction. On 16 September 1983, you were discharged in absentia.

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 you were suffering from an illness that was caused during your time serving in the military. 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 civil convictions, 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 considered the likely discrediting effect your civilian misconduct had on the Navy. Finally, the Board noted you provided no evidence to substantiate your contention. 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. 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,

6/13/2023



Executive Director

Signed by: █