



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

■  
Docket No. 2741-23  
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 4 October 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 13 December 1976. On 1 December 1977, you received non-judicial punishment (NJP) for absence from appointed place of duty. On 2 March 1978, you received NJP for larceny from the Navy Exchange. On 4 May 1978, you received NJP for disrespect toward a commissioned officer and disobeying a lawful order. On 27 July 1978, you received NJP for disrespect toward a superior a chief petty officer and assault upon a chief petty officer. On 24 August 1978, you received an additional NJP for unauthorized absence (UA) totaling 24 days and breaking restriction. Subsequently, you were notified of

pending administrative separation action by reason of misconduct due to frequent involvement with military authorities.

After waiving your rights in exchange for a General (Under Honorable Conditions) (GEN) discharge, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge with a GEN characterization of service. In the meantime, on 6 October 1978, you received an additional NJP for 12 hours of UA, failure to obey a lawful order and breaking restriction. On 10 October 1978, the Enlisted Performance Evaluation Board (EPEB) found that you committed misconduct due to frequent involvement with military authorities and recommended you be separated with GEN characterization of service. The SA approved the CO's and EPEB's recommendation and directed a GEN characterization of service by reason of misconduct due to frequent involvement with military authorities. On 30 October 1978, 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 suffer from post-traumatic stress disorder (PTSD) due to being harassed while serving in the Navy and have service connected disability. The Board noted that you checked the "PTSD" and "Sexual Assault/Harassment" boxes on your application but chose not to respond to the 4 April 2023 letter from the Board requesting supporting evidence for your claim. For the 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, 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 that there is no evidence in your record, and you submitted none, to support your contentions. As a result, the Board concluded significant negative aspects of your active service outweigh the positives aspects and continues to warrant a GEN characterization of service. 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



Docket No. 2741-23

correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

10/16/2023

