

## **DEPARTMENT OF THE NAVY**

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

> Docket No. 6439-23 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 16 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. The Board also considered the advisory opinion (AO) furnished by the Navy Department Board of Decorations and Medals. Although you were provided the opportunity to respond to the AO, you chose not to do so.

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 enlisted in the Navy and commenced active duty on 4 October 1976. On 28 December 1978, you commenced a period of Unauthorized absence (UA) until you surrendered on 6 January 1979. On 20 January 1979, you received non-judicial punishment (NJP) for UA.

On 12 October 1979, you were discharged from active duty with an Honorable characterization of service. On 2 October 1982, you received an Honorable Record of Discharge from the U.S. Navy Reserves (USNR).

The Board carefully considered all potentially factors to determine whether the interests of justice warrant relief in your case. These included, but were not limited to, your contention that you earned the National Defense Service Medal (NDSM), the Good Conduct Medal (GCM), and Aircrew wings.

As part of the Board's review process, Navy Department Board of Decorations and Medals issued an AO dated 11 August 2023. The AO noted in pertinent part:

The Petitioner served on active duty from 4 Oct 1976 to 12 Oct 1979, just barely more than three (3) years. Therefore, he did not meet the NGCM criteria of four years of continuous active service. Further, he received non-judicial punishment on 20 Jan 1979, which nullified any period of good conduct up to that point, and started over his qualifying period.

The entire period of the Petitioner's service fell outside the dates of eligibility for the NDSM [1 Dec 1960 to 15 Aug 1974 and 1 Aug 1990 to 30 Nov 1995], and therefore he does not qualify for that medal.

The AO concluded, "the Petitioner never qualified for either the NGCM or the NDSM. We found no evidence of material error or injustice in this case, and therefore recommend BCNR deny relief. Were BCNR to grant relief, such action would be inconsistent with the standards and criteria applied to all other Service Members."

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case. After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board concurred with the AO that you did not meet the eligibility requirements for the NGCM or NDSM, and found no evidence that you earned Navy Aircrew wings. 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.

