



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

█  
Docket No. 8099-23  
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 15 November 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 this 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 your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy and began a period of active duty on 30 September 1963. Between 19 March 1964 and 1 February 1965, you received non-judicial punishment (NJP) on three occasions, twice for periods of unauthorized absence (UA), and once for failure to obey a lawful order. Following that, on 17 June 1965, you were found guilty at Special Court-Martial (SPCM) of Uniform Code of Military Justice, Article 86, for UA, and Article 80, for an attempt to escape from lawful custody during the apprehension which ended the UA. As part of your SPCM sentence, you were confined for four months at the brig on board █. While serving that sentence, you escaped from the brig on 21 June 1965, and began another period of UA. During this UA, you pleaded guilty to, and were convicted of, violating

the Dyer Act (interstate auto theft) in the U.S. District Court, [REDACTED], for which you were sentenced to six-years confinement. On 16 March 1966, while confined, you were notified of the Navy's intent to administratively separate you. You waived your rights in this process, and on 4 May 1966, in accordance with your Commanding Officer's recommendation, you were discharged with an Other Than Honorable (OTH) characterization of service.

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 change your discharge character of service, and your contention that: (1) you became addicted to drugs in the Navy which caused your behavior to become erratic. For purposes of clemency and equity consideration, the Board noted you provided an advocacy letter but no documentation describing post-service accomplishments.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your multiple NJP's, SPCM, and federal conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. The Board also considered the negative impact your conduct likely had on the good order and discipline of your unit. 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 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 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,

11/20/2023

[REDACTED]