



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. 8368-23
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 13 December 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).

You entered active duty with the Navy on 2 April 1969. On 19 May 1969, you were formerly counseled on not meeting the requirements for advancement in rate or rating due to having a low GCT score. Between 16 July 1969 and 29 October 1969, you received three non-judicial punishment (NJP) for unauthorized absence (UA) totaling three days, two specifications of failure to obey a lawful order, and disrespect to a petty officer. Between 4 March 1970 and 13 March 1970, you received two NJPs for two specifications of UA totaling five days and two hours. Subsequently, you were notified of pending administrative separation action by reason of convenience of the government due to substandard performance and inability to adapt to military service. On 25 March 1970, you made a statement professing to make a more determined effort to adapt and conform to the Naval standards. In the meantime, you received two additional NJPs for dereliction of duty and UA on 8 June 1970 and 20 August 1970, respectively. Consequently, on 25 August 1970, your CO forwarded your package to the separation authority (SA) recommending your discharge with a General (Under Honorable Conditions) (GEN) characterization of service. The SA approved the

CO's recommendation and directed a GEN characterization of service by reason of non-potential petty officer material with low GCT. On 26 August 1970, 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 had six months left on your enlistment, you were given a choice to reenlist and go to Vietnam or receive a GEN discharge, and you were informed your GEN discharge would change to Honorable after six months. 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 other than your personal statement, to support your contentions. Additionally, the Board noted that there is no provision in law or regulations that allows for re-characterization of a discharge automatically after six months, due solely to the passage of time. Finally, the Board noted you were given multiple opportunities to correct your conduct deficiencies but chose to commit additional misconduct. As a result, the Board concluded significant negative aspects of your active service outweigh the positive 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 correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

12/26/2023

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Executive Director

Signed by: █