



**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. 8636-23  
Ref: Signature Date

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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 4 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 enlisted in the Navy and began a period of active service on 24 April 1963. On 25 January 1964, you received nonjudicial punishment (NJP) for a period of unauthorized absence (UA). On 21 May 1965, you were found guilty at a summary court-martial (SCM) of a 32-day UA and sentenced to confinement at hard labor for 30 days, reduction in rank to E-2, and forfeiture of \$57.00 pay per month for one month. You commenced another period of UA on 28 June 1965 and it was later discovered that you were held in █ detention center for auto theft. On 22 November 1965, you were found guilty by the U.S. District Court for the District of █ of transporting a stolen motor vehicle in interstate commerce. As a result, your commanding officer recommended to the separation authority that you be discharged with an Other Than Honorable (OTH) characterization of service by reason of misconduct as evidenced by your civil conviction. On 29 December 1965, 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 characterization of service and your contentions that: (1) you were told you were not accepted on the ship by the “EO” who often taunted and bad mouthed you, (2) you were told that you could request a discharge upgrade to Honorable but did not do so, (3) you were young, embarrassed and ashamed that you lost your temper which resulted in your punching your “EO,” (4) you were confined and, once released did not want to return to the abusive conditions on the ship so you went AWOL (absent without leave) and were later put in jail for being AWOL, (5) your discharge should be upgraded in recognition of your duty on the █ (6) you did not know the car you were riding in belonged to one of your friends and you did not know it was stolen, (7) post-discharge you worked in the oil field for 30 years without any “time lost” and made good money but looking back 58 years, you know you would have made the Navy a career as a diver, (8) you have not been in any trouble since your discharge, and (9) things happen you “played like a kid and was not sure what you wanted.” For purposes of clemency and equity consideration, the Board noted you provided a printout from Navybuddies.com, two personal statements, standard form 180/request pertaining to military records, and official military personnel file documents.

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 NJP, SCM, and civil 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. Additionally, the Board considered the likely negative effect your conduct had on the good order and discipline of your command, and the likely discrediting effect your civilian conviction had on the Navy. Finally, the Board noted you provided no evidence, other than your personal statements, to substantiate your contentions. As a result, the Board concluded your conduct constituted a significant departure of that expected of a service member and continues to warrant an OTH characterization of service. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge employment, even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrant granting you the relief you requested or granting relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigating evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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 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 is attached 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,

12/15/2023

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