



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. 8738-23
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 2 February 2024. 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 commenced active duty on 26 July 1965. On 8 February 1966, you received non-judicial punishment (NJP) for willful damage of a sousaphone, a musical instrument, and the military property of the United States. On 31 August 1966, after arriving in the combat zone of █ on board the █ you received a second NJP for misbehavior of a sentinel. Shortly thereafter, on 16 September 1966, you were assigned a professional performance mark of 2.8 due to "lack of initiative to undertake a task without routine supervision." Similarly, you were assigned a mark of 2.6 in military behavior due to "reluctance to obey the orders given" of superior petty officers. Nonetheless, on 13 January 1967, after your ship completed combat missions, you received a third NJP for willful disobedience of a superior Petty Officer. Afterwards, on 16 March 1967, you were again assigned unfavorable marks of a 2.8 in professional performance due to "inability to complete assigned tasks without more than the normal amount of supervision," and a 2.8 in military

behavior due to “reluctance to carry out assigned orders...” On 16 July 1968, you were released from active duty and transferred to the Naval Reserve. Your service was characterized as General Under Honorable conditions (GEN) with an overall trait average of 2.92.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request on 19 January 1973, based on their determination that your discharge was proper as issued.

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 characterization of service and your contentions that you feel like you did a great job, you demonstrated a great work ethic, maintained a clean life and kept good friends, and you do not know why you did not receive an Honorable (HON) discharge. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded your 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 likely negative impact your repeated misconduct had on the good order and discipline of your command. The Board also noted that you were given opportunities to address your conduct issues, but you continued to commit misconduct, which ultimately contributed to your characterization of service.

Regarding your contention that you do not know why you did not receive an HON discharge, the Board opined that an HON discharge is appropriate only if the member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. With three NJP's in your record, the Board concluded the negative aspects of your conduct and/or performance outweighed the positive aspects of your military record, and that the General (Under Honorable Conditions) discharge characterization you received, and no higher, remained appropriate. Furthermore, your final performance trait average upon separation, with an overall trait average of 2.92, and military behavior score of 2.76, failed to meet the threshold of 2.7/3.0 then required for a fully HON characterization of service.

As a result, the Board concluded significant negative aspects of your service outweigh the positive aspects and continues to warrant a GEN characterization. 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,

2/15/2024

