



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

█  
Docket No. 9226-23  
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 22 January 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 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).

You enlisted in the United States Navy Reserves and commenced a six year contracted period of reserve service on 16 September 1971. From September 1971 through September 1972, you had satisfactory participation in the selected reserves (SELRES) totaling 179 points. From October 1972 to March 1976, you failed to drill or complete any reserve obligations. On 3 March 1976, you were discharged from the Navy SELRES with a General (Under Honorable Conditions) (GEN) characterization of service by reason of "Convenience of the Government - Failure to satisfactorily complete Naval Reserve training requirements" and were not recommended for reenlistment.

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 for a discharge upgrade and contentions that: (1) you initially participated in your drilling obligation, (2) you suffered a serious injury resulting in the loss of fingers on your right hand, and (3) you informed your reserve unit of your injury. For purposes of clemency and equity consideration, the Board noted that you provided a photo of your injury and documentation of the subsequent lawsuit.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your extensive non-participation in all reserve obligations outweighed these mitigating factors. In making this finding, the Board considered the fact that your absence left your unit gapped, thereby negatively impacting mission accomplishment. While the Board acknowledges that you suffered a traumatic injury, they felt that you should have worked with your command to seek assistance, obtain an approved leave of absence, transfer to the Individual Ready Reserves (IRR), or otherwise remedy your situation through proper channels. The Board highlighted that, instead of working with your command to terminate your contract, you just ceased all participation in reserve obligations until your contracts early termination on 3 March 1976. The Board determined that characterization under GEN conditions is appropriate in your case, as is applied when significant negative aspects of a Sailor's conduct outweighs the positive aspects. In your case, you only completed one year of service on a six-year contract. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. As a result, the Board determined that there was no impropriety or inequity in your discharge, and concluded that your conduct clearly merited your receipt of a GEN. 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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,

2/1/2024

