



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

██████████
Docket No. 10360-23
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 23 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 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 Navy and began a period of active service on 5 September 1972. Between 3 January 1973 to 25 May 1973, you went on unauthorized absence (UA) on seven separate occasions. You received non-judicial punishment (NJP), on 28 May 1973, for your UA from 15 May 1973 to 25 May 1973. On 11 June 1973, you received NJP for failure to go to your appointed place of duty and disobedience of a lawful order of a Senior Petty Officer. You were counseled the following day regarding your varying instances of misconduct, and marginal performance. In June and August 1973, you received NJP for offenses that included failure to go to your appointed place of duty, disobedience of a lawful order order from a Petty Officer, and disrespect of a Petty Officer. Consequently, you were notified of the initiation of administrative separation proceedings by reason of unfitness, at which point, you waived your right to consult with counsel. Further, you agreed to a conditional waiver of a hearing of your cases from an administrative discharge board in exchange for a General (Under Honorable Conditions) (GEN) character of service. Your commanding officer recommended approval of your waiver request for discharge with a GEN. You were discharged with a GEN by reason of unfitness on 9 November 1973.

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 characterization of service and contentions that you were wrongly discharged and discriminated against based on your race. 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 and periods of UA, 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. Further, the Board noted you failed to provide evidence to support your contention of discrimination. Finally, the Board noted you entered into an agreement to waive your administrative board in exchange for a GEN characterization of service. This request was voluntary and you received the benefit of your agreement with the Navy. As a result, the Board concluded significant negative aspects of your service outweighed 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,

3/13/2024

