



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

█  
Docket No. 0174-24  
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 18 March 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy and commenced active duty on 31 August 1960. On 3 July 1961, you received non-judicial punishment (NJP) for a four-day period of unauthorized absence (UA) and missing ship's movement. On 21 September 1961, you received NJP for willful destruction of government property, UA, and willfully disobeying a petty officer. On 8 October 1961, you were found guilty at Special Court Martial (SPCM) of thirteen days of UA. On 5 January 1962, you received NJP for two-and-a-half hours of UA. On 28 Feb 1963, you received NJP for three hours of UA. On 27 March 1963, you received NJP loaning money and demanding a usurious and unconscionable rate of interest and leaving appointed place of duty while in a restricted status. On 9 April 1964, you received NJP for a nineteen-day period of UA.

On 29 April 1964, you commenced a period of UA, during which time you were apprehended by civil authorities on 12 May 1964. You were charged with and pleaded guilty in a civilian court to transporting and causing to be transported in interstate commerce, a motor vehicle that you knew to be stolen. On 14 August 1964, your sentence was suspended, you were placed on probation for three years, and you were turned over to military authorities. On 27 August 1964, you were found guilty at SPCM of UA from 30 April 1964 to 14 August 1964.

Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). The ADB found that you had committed misconduct and recommended that you be discharged under OTH conditions. The separation authority concurred with the ADB and directed an OTH discharge by reason of misconduct due to civilian conviction. On 15 October 1964, 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 change your discharge characterization of service and your contentions that you served your full enlistment for four years and four months and want your children to see your record as Honorable. For 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 your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your SPCMs, NJPs, and civilian conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your repeated misconduct had on the good order and discipline of your command. The Board also considered the service-discrediting nature of the misconduct for which you received a civilian conviction. With respect to your contention that you served your full four-year term of service, the Board noted that your creditable time was three years, eight months, and nineteen days due to your multiple, extended periods of UA.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH 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,

4/3/2024

