



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. 1108-24
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 28 August 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 entered active duty with the Navy on 18 August 1971. On 1 March 1972, you received non-judicial punishment (NJP) for four days of unauthorized absence (UA). On 9 June 1972, you received an additional NJP for four days of UA. On 19 June 1972, you received a psychological evaluation, which diagnosed you with immature personality that existed prior to enlistment (EPTE) and recommended administrative separation.

As a result, you were notified of pending administrative separation action by reason of unsuitability due to a personality disorder. After waiving your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge with a Type Warrant by Service Record (TWSR) characterization of service. An Enlisted Performance Evaluation Board (EPEB) recommended you be discharged with a TWSR characterization of service. The SA approved the EPEB's recommendation and directed a General (Under Honorable Conditions) (GEN) characterization of service by reason of unsuitability. On 13 July 1972, 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 discharge to Honorable and contentions that you were never provided help with your problem, your performance evaluations shows you were a reliable and efficient Sailor, and you were mentally unable to explain your mistakes. The Board also noted you checked the “Other Mental Health” box on your application but did not respond to the 6 February 2024 letter from the Board requesting supporting evidence for your claims. For the purposes of clemency and equity consideration, the Board noted you provided an in-service evaluation and documentation from your separation packet.

After thorough review, the Board concluded these 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 seriousness of your misconduct and the likely negative impact your conduct had on the good order and discipline of your command. Further, the Board also noted that character of service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your conduct average was 2.9. An average of 3.0 in conduct was required at the time of your separation for a fully Honorable characterization of service. Finally, the Board considered that you provided no evidence, other than your statement, to substantiate your contention that you suffered from a mental health issue that should mitigate your misconduct.

As a result, the Board concluded significant negative aspects of your active service outweigh the positive aspects and continues to warrant a GEN characterization of service. While the Board carefully considered the evidence you provided 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 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,

9/12/2024

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