



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

█
Docket No. 1477-24
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 3 April 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 15 October 1964. On 2 June 1965 and 13 July 1965, you received non-judicial punishments (NJP) for failure to obey a lawful order. On 22 December 1965, you received NJP for failure to obey a lawful order and unlawful alteration of an identification card. On 18 March 1966 and 7 July 1966, you received NJP for assault, failure to obey an order or regulation, and conduct unbecoming bring discredit to the Navy. On 2 March 1967 and 10 July 1967, you received NJP for assault and unauthorized absence (UA) totaling 19 hours and 38 minutes. On 7 September 1967, you received NJP for conduct of a nature to bring discredit to the Navy. On 29 December 1967, a summary court-martial (SCM) convicted you of UA totaling three hours and 15 minutes and breaking restriction. Subsequently, you were notified of pending administrative separation action by reason of frequent involvement with military authorities. After being notified of pending administrative separation, you chose to waive your rights. On 3 January 1968, civil authorities convicted you of driving under the influence of alcohol or drugs and driving without a driver license.

On 5 January 1968, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge by reason of misconduct due to frequent involvement with military authorities with an Other Than Honorable (OTH) characterization of service. The SA approved the CO's recommendation but suspended your OTH characterization of service for 12 months unless sooner vacated. However, on 6 February 1968, you received an additional NJP failure to obey a lawful order. As a result, the SA directed an OTH characterization of service by reason of misconduct due to frequent involvement with military authorities. On 16 February 1968, 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 and contention that you served three years before discharge and you started drinking alcohol after joining the Navy. 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 these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs and SCM, outweighed the potential mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative effect it had on the good order and discipline of your unit. Further, the Board noted that a Sailor's service is characterized at the time of discharge based on performance during the current enlistment. Further, the Board noted you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct. Finally, the Board determined you were already given clemency by the Navy when they chose to suspend your OTH discharge prior to your last act of misconduct. 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,

4/22/2024

█