



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

█  
Docket No. 1555-24  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 11 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, 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 began a period of active duty on 10 December 1985. Upon your enlistment, you admitted preservice use of marijuana, assault, and breaking and entering charges. On 26 March 1986, you received nonjudicial punishment (NJP) for a period of unauthorized absence (UA) from your appointed place of duty and failure to obey a lawful order. On 12 March 1987, you received a second NJP for disrespect towards a petty officer. Subsequently, you were counseled concerning your previous NJP violations and advised that failure to take corrective action could result in administrative separation.

On 23 April 1987, you began a period of UA which lasted one-day. On 5 June 1987, you missed ship movement. On 6 June 1987, you began a second period of UA which lasted 45 days and resulted in your apprehension by civil authorities. On 9 August 1987, you were convicted by summary court martial (SCM) for two periods of UA, missing ship movement, disrespectful in language towards a petty officer, and dereliction in the performance of your duties. You were sentenced to reduction to the inferior grade of E-1 and confinement at hard labor for a period of 30 days.

Consequently, you were processed for administrative separation. On 29 September 1987, your commanding officer recommended you be separated with an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to pattern of misconduct. On 6 October 1987, the separation authority approved and ordered an OTH discharge characterization by reason of misconduct due to pattern of misconduct. On 3 November 1987, you began a third period of UA which lasted 79 days and resulted in your apprehension by civil authorities. On 18 February 1988, 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 for a discharge upgrade and contentions that: (a) you were 18 years of age and your recruiter misled you during the enlistment process, (b) you were very young and immature and did what was necessary to get out of the Navy, (c) there were several recruits that were misled during the time frame you joined, and (d) you have been a good citizen and taxpayer who supports the military in numerous ways. 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 that your misconduct, as evidenced by your NJPs and SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact it had on the good order and discipline of your unit. The Board noted that you were given the opportunity to correct your conduct deficiencies but continued to commit misconduct. Finally, the Board noted you provided no evidence, other than your personal statements, to substantiate your contentions.

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 the 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,

3/28/2024

