



**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. 2218-24  
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 12 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, 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 duty on 26 September 1974. On 6 March 1975, you received nonjudicial punishment (NJP) for using provoking speeches or gestures, communicating a threat, willful disobedience of a petty officer, and disrespect towards a petty officer. On 20 March 1975, you began a period of unauthorized absence (UA) which lasted four-days. On 27 March 1975, you received a second NJP for a general article violation. On 22 December 1975, you began a second period of UA which lasted 14 days and resulted in your third NJP on 7 January 1976. On 28 February 1976, you began a third period of UA which lasted two-days and resulted in your fourth NJP on 5 March 1976. On 16 March 1976, your commanding officer recommended that you be disqualified from submarine duty by reason of environmental inadaptability

Consequently, you were notified of the initiation of administrative separation proceedings by reason of substandard performance and inability to adapt to military service. You decided to

waive your procedural rights and your commanding officer recommended that you be administratively separated from the Navy with a General (Under Honorable Conditions) (GEN) discharge characterization of service. On 29 March 1976, 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 you would like to have an Honorable discharge so that you may obtain veterans' benefits. Additionally, the Board noted you checked the "PTSD," "Other Mental Health," and "Sexual Assault/Harassment" boxes on your application but chose not to respond to the Board's request for supporting evidence of your claims. For purposes of clemency 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, 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. Further, the Board noted you were provided multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities. Ultimately, the Board determined you were fortunate to receive a GEN characterization of service based on your extensive record of misconduct.

As a result, the Board concluded significant negative aspects of your service outweigh 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 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,

8/23/2024

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