



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. 2504-24
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 father's 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 15 May 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 entered active duty with the Navy on 2 March 1977. On 9 September 1977, you went into an unauthorized absence (UA) status for three days before surrendering to military authorities. On 26 October 1977, you received non-judicial punishment (NJP) for two specifications of UA totaling 10 days. On 17 January 1978, a summary court-martial (SCM) convicted you of UA totaling 25 days. On 20 April 1978, you received NJP for two specifications of UA totaling six days. On 2 December 1980, you received NJP for two specifications of absence from appointed place of duty. On 3 March 1981, a second SCM convicted you of two specifications of UA totaling 441 days. On 3 December 1981, you received NJP for being in a UA status for 4 hours

and 40 minutes. Consequently, you were notified of pending administrative separation action by reason of convenience of the government (COG) due to poor performance.

After electing to make a written statement, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge with a General (Under Honorable Conditions) (GEN) characterization of service. On 22 April 1982, you received an additional NJP for absence from appointed place of duty. You subsequently commenced a period of UA that ended on 18 December 1988 with your apprehension by civil authorities.

On 7 February 1989, a special court-martial (SPCM) convicted you of two specifications of UA totaling 2378 days. As a result, you were sentenced to confinement for 75 days, forfeiture of pay, and a Bad Conduct Discharge (BCD). After the BCD was approved at all levels of review, you were so discharged on 7 February 1990.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. On 25 January 1993, the NDRB denied your request after determining that your discharge was proper as issued.

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 contentions that the Department of Veteran Affairs (VA) stated you received a Dishonorable Discharge and you would like to receive VA benefits. 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, SCMs and SPCM, outweighed the mitigating evidence in your case. 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, 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.

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

Finally, as previously discussed and as evidenced by the DD Form 214 you submitted with your application, your military record documents that you received a BCD upon your discharge from the Navy. Any reference to a "Dishonorable" discharge by the VA is for internal VA purposes only and not applicable to your Navy record.

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,

5/30/2024

