



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

██████████  
Docket No. 4019-24  
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 17 June 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 enlisted in the U.S. Navy and began a period of active duty on 30 September 1976. You were in a period of unauthorized absence (UA) on 19 April 1977 and from 30 May 1977 until 6 June 1977. On 5 June 1977, you were charged by civilian authorities. On 8 June 1977, you were convicted for shoplifting and sentence to a \$25 fine plus court costs. In July 1977, you were arrested by civilian authorities for credit card theft, credit card fraud, forgery of credit card, and criminal receipt of goods. You were convicted in August 1977 for the credit card theft and forgery of credit card offenses and a suspended sentence confinement on the condition you made complete restitution by September 1977.

On 1 September 1977, you failed to appear in court for your failure to pay \$25 fine and court costs. Subsequently, you commenced another period of UA, on 16 November 1977, that ended with your apprehension on 24 May 1978. On 19 May 1978, you were again arrested by civilian authorities for passing worthless checks and grand larceny. On 25 August 1978, you were convicted of 23 counts of passing worthless checks and grand larceny. You were sentenced to six months in jail suspended for a period of 18 months on good behavior and full restitution in the checks written.

Consequently, the Commanding Officer (CO) notified you for administrative separation for misconduct due to civil conviction and you elected to have an administrative discharge board (ADB) hear your case. On 1 December 1978, the ADB found misconduct and recommended you be separated with an Other than Honorable (OTH) characterization of service. The separation authority accepted the ADB's recommendation and you were so discharged on 30 March 1979

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 to obtain veterans' benefits and contentions that you were charged in civilian court for worthless check misdemeanor and that was your only charge. 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 civil convictions, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely discrediting effect your civil convictions had on the Navy. Furthermore, contrary to your contention, the Board noted your record reflects multiple civil convictions that include shoplifting, credit card theft, forgery of a credit card, and grand larceny. Additionally, the Board noted you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which ultimately led to your discharge. 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.

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. 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,

7/1/2024

