



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

█  
Docket No. 4133-24  
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 reconsideration application on 21 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).

You enlisted in the U.S. Navy and began a period of active duty service on 19 August 1977. On 6 November 1978, you received non-judicial punishment (NJP) and were reduced in rank to E-1.

On 2 February 1979, you commenced a period of unauthorized absence (UA). Your UA terminated on 5 February 1979. On 23 February 1979, you commenced another period of UA that terminated on 8 March 1979. On 9 March 1979, you received NJP for your two UA periods. You did not appeal your NJP.

On 5 April 1979, you received NJP for being UA from restricted musters on 12 separate occasions. You did not appeal your NJP. On 6 May 1979, you commenced a period of UA that terminated on 11 May 1979. On 25 May 1979, you received NJP for three separate UA specifications. You did not appeal your NJP.

On 25 October 1979, you received NJP for UA. You did not appeal your NJP. On 10 June 1981, you reported for duty on board the █. On 2 October 1981, you received NJP for four separate UA specifications. You did not appeal your NJP.

On 29 January 1982, you were convicted at a Summary Court-Martial (SCM) of six separate UA specifications of varying lengths of time. You were sentenced to forfeitures of pay and confinement at hard labor for twenty days. On 4 February 1982, you were involuntarily placed on "legal hold" beyond your normal expiration of obligated service as a result of your SCM and the execution of any sentence.

Following your release from confinement, on or about 2 March 1982, you were separated from the Navy due to substandard military performance and failure to conform to military standards with a General (Under Honorable Conditions) (GEN) discharge characterization. You were not recommended for reenlistment.

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 have been out of the service for around 40 years, (b) all you have on your record is that you went "UA" a few times, (c) at the time you were a young kid on a tropical island, (d) some of the UAs were personal and you told your commanding officer and he was lenient with you and gave you less time, (e) at the end your command wanted you to reenlist but you did not; you extended your enlistment for one year instead of reenlisting. For purposes of clemency and equity consideration, the Board considered the entirety of the evidence you provided in support of your application, which consisted solely of the information you placed on DD Form 149 without any additional supporting documentation.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record of service was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under GEN or under Other Than Honorable conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The simple fact remains is that you left the Navy while you were still contractually obligated to serve and you went into a UA status without any legal justification or excuse on no less than six separate occasions lasting between one and 13 days. The Board determined the record clearly reflected that your misconduct was intentional and demonstrated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

The Board observed that character of military service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your

overall active duty trait average calculated from your available performance evaluations during your enlistment was approximately 2.6 in conduct. Navy regulations in place at the time of your discharge recommended a minimum trait average of 3.0 in conduct (proper military behavior), for a fully Honorable characterization of service. The Board concluded that your conduct marks during your active duty career were a direct result of your pattern of serious misconduct which further justified your GEN discharge characterization and no higher.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order in discipline clearly merited your discharge. 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,

6/26/2024

