



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

██████████
Docket No. 4924-24
Ref: Signature Date

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Dear ██████████

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 14 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, 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 21 November 1978. The following month, an investigation determined you enlisted fraudulently but your commanding officer's (CO) recommendation to take no action was approved. However, you were warned that further misconduct may result not only in disciplinary action but also processing for administrative discharge. On 22 August 1979, you received non-judicial punishment (NJP), for unauthorized absence (UA). Then, on 3 October 1979, you received your second NJP, for 28 days UA and breaking restriction. On 6 November 1979, you were found guilty at summary court-martial (SCM) for absenting yourself without authority from your place of duty and

breaking restriction. You were sentenced to confinement and forfeiture of pay. The next month you commenced a period of UA that ended on 11 August 1981.

On 22 October 1981, you were found guilty at special court-martial (SPCM) for your 591 days of UA. You were sentence to reduction in rank, forfeiture of pay, confinement, and Bad Conduct Discharge (BCD). After completion all levels of review, you were so discharged on 29 November 1982.

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 your contentions that you were going through serious family issues, later found out you had serious emotional issues, you were diagnosed with severe anxiety problems, and you are currently under doctor's care. You also contend you were doing okay but all your issues came back to surface the exact time you were stationed close to where you were raised. The Board noted you checked the "PTSD" and "Other Mental Health" boxes on your application but did not respond to the Board's request for supporting evidence of your claims. For purposes of clemency and equity consideration, the Board noted you did not provide any advocacy letters or documentation describing post-service accomplishments.

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, SCM, and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. Further, the Board concluded that your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service, which was terminated by your separation with a BCD. The Board noted you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct. Finally, the Board considered that you provided no evidence, other than your statement, 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 a BCD. 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,

9/4/2024

