



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. 4966-24
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 2 October 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 this 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 Navy and commenced a period of active duty on 24 January 1957. On 16 October 1957, you were convicted at a Summary Court Martial (SCM) for five specifications of making worthless checks. On 19 December 1957, you received non-judicial punishment (NJP) for unauthorized absence (UA) from morning muster. On 27 January 1958, you received your second SCM for UA. On 14 March 1958, you were convicted by civil authorities for forgery and sentenced to four months confinement. As a result of the foregoing, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to civil conviction. An administrative discharge board (ADB) convened and reviewed your case. The ADB recommended your discharge with an undesirable character of service due to your misconduct by reason of civil conviction. The separation authority approved and directed your discharge with an Other Than Honorable (OTH) character of service by reason of misconduct due to civil conviction. On 3 June 1958, 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 to upgrade your characterization of service and contentions that you were young, your punishment was too severe because you were punished by military and civil authorities, your misconduct was relatively minor by today's standards, and you successfully returned to duty after serving your confinement. Additionally, the Board noted you checked the "Other Mental Health" box on your application but chose not to respond to the Board's request for supporting evidence of your claim. For purposes of clemency and equity consideration, the Board noted you provided supporting statements and documents but no evidence any 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 NJP, SCMs, and civil conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely discrediting effect it had on the Navy. The Board noted your punishments were warranted by the gravity of the offenses you were charged with and are still not considered minor offenses in today's standards. Additionally, discharge proceeding by reason of civil conviction were affected in accordance with applicable law and regulations, and the final discharge appropriately characterizes the misconduct for which you were convicted. Finally, the Board noted you were ordered discharged while serving your confinement and discharged upon returning to military custody. Therefore, the Board was not persuaded by your contention that you returned to duty after your civilian conviction and performed without incident upon your return.

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 characterization. While the Board carefully considered the evidence you submitted in mitigation, 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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,

10/22/2024

