



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

██████████
Docket No. 7178-24
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 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 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 Reserve and began a period of active duty on 8 December 1992 for training. You were released from active duty and returned to your reserve unit on 27 March 1993. You then began a period of active duty on 23 August 1993.

On 17 December 1996, you received non-judicial punishment (NJP), for failure to report back from emergency leave and 24 specifications of failure to pay just debt to the ships store for a total of \$900.00. You were subsequently issued a counseling warning for your failure to pay just debts and notified that further deficiencies in your conduct may result in disciplinary action and in processing for administrative separation. On 5 February 1997, you received your second NJP for failure to obey an order, and three specifications of unauthorized absence (UA). Consequently,

you were notified of administrative separation processing for misconduct pattern of misconduct and commission of a serious offense. After you waived your rights, the Commanding Officer (CO) directed you be discharged with a General (Under Honorable Conditions) (GEN) for pattern of misconduct. You were so discharged on 11 February 1997.

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 contention that you feel that your discharge was unjustified and wrong. For purposes of clemency and equity consideration, the Board noted you provided a personal statement but no 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, 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 noted that you were given opportunities to correct your conduct deficiencies but chose to continue to commit misconduct. Finally, the Board was not persuaded by your contentions of unfair treatment and considered your CO's comments that you were an "administrative burden to (your) division and this command. (You are) unsuitable for naval service and continue to violate the Uniform Code of Military Justice, which is detrimental to good order, and discipline and brings discredit upon the United States Navy." Ultimately, the Board determined you were fortunate to receive a GEN characterization of service for misconduct that qualified for an Other Than Honorable characterization.

As a result, the Board concluded significant negative aspects of your service outweigh the positive aspects and continues to warrant a GEN characterization. Even in light of 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,

10/21/2024

