



Docket No. 7923-24
Ref: Signature Date

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 11 December 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 United States Navy and began active duty on 6 July 1970. On 14 January 1972, you received non-judicial punishment (NJP) for a two hour period of unauthorized absence (UA). On 2 February 1972, you received your second NJP for another period of UA totaling approximately 3.5 hours. On 5 April 1972, you received your third NJP for eight instances of UA. Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of unfitness due to frequent involvement of a discreditable nature with civil or military authorities. You consulted with counsel and agreed to waive your right to an administrative board in order to receive a General (Under Honorable conditions) (GEN) characterization. In the meantime, you were again subject to NJP for nine instances of UA. The commanding officer forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy with a GEN characterization of service. The separation authority accepted the recommendation and you were so discharged on 26 May 1972.

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 discharge character of service for the purpose of obtaining veterans' benefits. You contend that you are living on social security, and you could use the extra money. For purposes of clemency and equity consideration, the Board noted you provided a copy of your DD Form 214.

After thorough review, the Board concluded your 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 concluded your misconduct showed a complete disregard for military authority and regulations. Further, the Board noted that you were provided multiple opportunities to correct your conduct deficiencies during your service but you continued to commit additional misconduct; which led to your GEN discharge. Your conduct not only showed a pattern of misconduct but was sufficiently serious to negatively affect the good order and discipline of your command. 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. The Board concluded that you already received a large measure of clemency when the Navy agreed to separate you with a GEN despite your continued misconduct throughout the administrative separation process.

As a result, the Board determined significant negative aspects of your service outweigh the positive aspects and continues to warrant a GEN 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. Accordingly, given the totality of the circumstances, the Board determined 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,

1/20/2025

