

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

> Docket No. 8620-24 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 13 November 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 Navy and began a period of active duty on 26 November 1973. On 31 October 1974, you received non-judicial punishment (NJP) for failing to go to your appointed place of duty. On 27 March 1975, you received your second NJP for unauthorized absence. On 31 March 1975, you received an administrative and counseling (Page 13) regarding your frequent involvement of a discreditable nature with military and civilian authorities. On 26 June 1975, you received your third NJP for misbehavior of a sentinel and unauthorized absence. On 2 October 1975, you received your fourth NJP for two specifications of unauthorized absence. On 9 October 1975, you received your sixth NJP for unauthorized absence. On 27 February 1976, you received your sixth NJP for unauthorized absence. On 19 April 1977, you were found guilty of unauthorized absence for a period of 143 days at a special court-martial (SPCM). Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct as evidenced

by a pattern of misconduct. You elected your right to speak with counsel and to appear at an administrative board. However, you subsequently requested an immediate discharge in order to expedite your discharge. The commanding officer forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy with a General (Under Honorable Conditions) (GEN) characterization of service. The separation authority approved the recommendation and, on 13 July 1977, 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 discharge character of service for you and your family before you pass away. For purposes of clemency and equity consideration, the Board noted that you did not submit documentation in support of your application.

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 and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found your misconduct showed a complete disregard for military authority and regulations. Further, the Board noted that you were provided opportunities to correct your conduct deficiencies during your service; however, you continued to commit misconduct that 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. Ultimately, the Board concluded you were fortunate to receive a GEN characterization based on your extensive record of misconduct.

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

	12/10/2024	
Executive Director		
Signed by:		