

## **DEPARTMENT OF THE NAVY**

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

> Docket No. 8702-24 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 18 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 Reserve and commenced active duty on 28 July 1975. After a period of continuous Honorable service, you were released from active duty on 27 July 1978 and transferred to the Ready Reserve. Per your enlistment contract, you were required to serve thirty-six months of active duty and thirty-six months in the Ready Reserve. You signed a statement of understanding that you were required to attend forty-eight drills and fourteen days of active duty for training per year, were to keep the Navy advised of the mailing address at which you could be reached and were required to reply to all official correspondence requiring a reply. From 28 July 1978 to 27 July 1979, you earned four drill points and zero active-duty points. You earned zero drill points and zero active-duty points for the next six months. On 4 January 1980 and 11 January 1980, your command attempted to deliver active-duty orders to your address on file but you were not available for signature. On 14 January 1980, you commenced a period of unauthorized absence (UA) for failure to report for nineteen days involuntary active duty for training. You earned zero drill points and zero active-duty points for the remainder of your time in service.

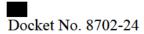
Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. You service record includes an administrative remarks (Page 13) entry that indicates you were separated on 7 September 1982 with a "General (Under Honorable Conditions)" (GEN) characterization of service, your narrative reason for separation is "Convenience of the government (failure to complete military training)," and your reentry code is "RE-4."

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 change your discharge characterization of service and your contentions that you left your civil service job and informed your command that you could no longer drill because you had to return home to care for your mother. For purposes of clemency and equity consideration, the Board considered your statement and Associate in Arts degree certificate you provided.

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 failure to report for active-duty training or required drills, outweighed these mitigating factors. The Board noted you provided no evidence, other than your personal statement, to substantiate your contention that you notified your command of your new address. The Board determined that the record indicates your command was unaware of your departure and attempted to deliver your active-duty orders to your address in January 1980. The Board further noted the Standard Form 50 you provided, that indicates you resigned from your civilian job in was effective 9 May 1980, four months after you were ordered to active duty and eleven months after your last credited drill. Therefore, the Board was not persuaded by your contentions and determined you were appropriate processed and discharged for failing to complete your obligated service.

As a result, the Board concluded that significant negative aspects of your service outweighed the positive aspects and continues to warrant a GEN characterization. While the Board carefully considered the evidence you submitted in mitigation and commends your post-discharge accomplishments, 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.

