



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. 8791-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 31 January 2025. 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 to 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 27 March 1969. On 30 September 1969, you were issued administrative counseling advising you to correct deficiencies in performance and conduct; specifically noting that you took little pride in your uniform and required constant correction on your appearance and the proper wearing of your uniform. On 5 December 1969, you were subject to nonjudicial punishment (NJP) for violations of the Uniform Code of Military Justice (UCMJ) under Articles 86 and 91, respectively, for an unauthorized absence (UA) from your appointed place of duty and for two specifications of disobeying lawful orders from the Mess Decks Master-at-Arms and the Galley Watch Captain. On 13 January 1970, you received a second NJP for four additional specifications of violation of Article 91 that included failure to obey the order of a superior petty officer to go work in the spud locker, failure to obey the order of a superior petty officer to stay up until arrival of the Watch Captain, disrespectful language toward a superior petty officer, and disrespectful language toward a chief petty officer.

On 31 March 1970, you submitted a voluntary request to be assigned for duty in ██████████; which received a favorable recommendation from your chain of command notwithstanding your previous two NJPs. On 15 June 1970, you were issued administrative counseling that you had not adjusted well to military life and required supervision to complete assigned duties. You were then issued orders to report to the ██████████ (██████████); however, you failed to comply with those orders due to a period of UA from 8 August 1970 to 10 August 1970. This misconduct resulted in a third NJP and additional counseling warnings regarding your frequent involvement of a discreditable nature with military authorities.

On 2 February 1971, you received your fourth NJP for another Article 86 violation. Consequently, you were notified of processing for administrative separation by reason of unfitness due to your frequent involvement of a discreditable nature with military authorities. You elected to waive your rights incident to that notification and were recommended for a General (Under Honorable Conditions) (GEN) discharge. The separation authority approved your separation as recommended. On 26 February 1971, 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 Memos. These included, but were not limited to, your desire to upgrade your discharge and your contention that you are not the same person today after receiving counseling as you were during your military service. In addition, 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 that you provided documentation describing post-service accomplishments and 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. The Board observed you were given multiple opportunities to correct your conduct deficiencies and chose to continue to commit misconduct, which led to your GEN discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. Based on your extensive record of misconduct and counselings, the Board determined you were fortunate not to receive an Other Than Honorable characterization of service.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. While the Board carefully considered the evidence you submitted in mitigation and commends you on your post-discharge rehabilitation, 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 the 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 is attached 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,

2/26/2025

