



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

██████████
Docket No. 8862-24
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 29 January 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 on 27 October 1976 and later completed a period of active duty for training. On 15 December 1977, you entered a second period of active duty. On 6 September 1979, you received non-judicial punishment (NJP) for two specifications of absence from appointed place of duty, two specifications of willfully disobeying a lawful order, communicating a threat, disrespect in language toward a petty officer, failure to obey a lawful written order, and assault on a non-commissioned officer. On 6 August 1980, you received NJP for disobeying a lawful order. On 20 February 1981, civil authorities convicted you of disorderly conduct and assault on a police officer. On 10 July 1981, you received NJP for assault on a petty officer and wrongfully communicating a threat. On 8 October 81, you received NJP for unauthorized absence (UA) totaling 25 minutes. On 4 December 1981, civil authorities arrested you and charged you with robbery. On 9 December 1981, you received NJP for being UA from your unit. On 2 February 1982, you received NJP for absence from appointed place of duty and violation of a general order. On 13 February 1982, you commenced on a period of UA that lasted until you were apprehended by civil authorities and charged with use of a firearm in a felony.

On 3 May 1982, civil authorities tried and convicted you of armed robbery. You were sentenced to five years in a ██████ State Prison. Consequently, you were notified of pending administrative separation action by reason of frequent involvement with military and civil authorities. After electing to make a written statement, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge with an Other Than Honorable (OTH) characterization of service. The SA approved the CO's recommendation, and you were so discharged in absentia on 24 August 1982.

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 and contention that you received treatment for your mental health condition prior to discharge. The Board also noted you checked the "PTSD" and "Other Mental Health" boxes on your application but did not respond to the Board's request for supporting evidence of these claims. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

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 and civil convictions, 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 also noted that the evidence of record did not show that you were not responsible for your conduct or that you should not be held accountable for your actions. Additionally, the Board observed that you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct, which led to your OTH 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. Finally, the Board noted that there is no evidence in your record, and you submitted none, to substantiate your contentions.

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 provided 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. 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 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,

2/24/2025

