



Docket No. 9927-24
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 2 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 Navy Reserve on 14 December 1963 with a planned active-duty start date of December 1966 and acknowledged that you were obligated to serve two years of active duty and participate in the ready reserve for the balance of your six year enlistment, and that satisfactory participation in the ready reserve was no less than forty-eight drills and no more than seventeen days of active duty for training per year. You attended twelve drills between 15 December 1963 and 31 March 1964. On 28 May 1964, you received notification that your planned active-duty date was changed to 22 June 1964. On 22 June 1964, after you failed to report, you were declared an absentee. On 21 July 1964, you were issued orders to report for active duty on 31 August 1964. You failed to report on 31 August 1964 and commenced a period of unauthorized absence UA) that ended on 1 October 1964, when you were apprehended by military police and placed in confinement.

On 18 November 1964, you were convicted at Special Court Martial (SPCM) of UA from 31 August 1964 to 1 October 1964 and failure to obey a lawful order. You were sentenced to forfeitures and confinement at hard labor. On 1 December 1964, you were evaluated by a psychologist where you stated that you received active-duty orders for missing drills, became angry, and ran away. The military doctor determined you were an emotionally unstable personality, passive-dependent type and recommended you for administrative separation. You were released from confinement on 16 December 1964 and began recruit training on 17 December 1964. You completed recruit training on 18 March 1965. On 3 May 1965, you commenced a period of UA that ended in your surrender on 10 May 1965. On 11 May 1965, you commenced a period of UA, during which you were arrested by civilian authorities for robbery, kidnapping, and grand theft auto. The fourteen-day-period of UA ended when civilian authorities returned you to military control on 24 May 1965. On 25 May 1965 you broke restriction and commenced a period of unauthorized absence from which you did not return to the military.

On 15 June 1965, you pleaded guilty in civil court to petty theft and burglary and were sentenced to ten days in jail and two years of probation. On 22 June 1965, you escaped from a work detail. On 26 July 1965, you were arrested by civil authorities for escaping custody and sentenced serve time as prescribed by law in ■■■■■.

Consequently, you were notified via registered mail of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to civil conviction. By not responding to the letter of notification, you waived your rights to submit a statement or have your case heard by an administrative discharge board. The Separation Authority subsequently directed your discharge with an OTH characterization of service and you were so discharged on 3 November 1965.

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 were young, influenced by peer pressure, and that you want to save face with your family who all served honorably. For purposes of clemency and equity consideration, the Board considered your statement and the advocacy letter from your son that you provided. The Board noted that you did not provided documentation of post-discharge accomplishment.

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 SPCM and civil convictions, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your repeated misconduct had on the good order and discipline of your command. The Board also considered the potentially discrediting effect your civil convictions had on the Navy. The Board also observed that you were provided the opportunity to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH discharge.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH 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. 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.

Sincerely,

1/6/2025

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Executive Director

Signed by: ■