



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

██████████
Docket No. 10747-24
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 10 February 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 this 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case on the evidence of record.

You enlisted in the U.S. Navy on 23 June 1980. After a period of continuous Honorable service, you commenced a second period of active duty on 30 March 1984. On 17 August 1984, you received nonjudicial punishment (NJP) for a five-day period of unauthorized absence (UA). On 20 February 1985, the Third Judicial District Court of the State of ██████████ convicted you of battery with intent to commit robbery and battery with intent to commit robbery with the use of a deadly weapon. You were sentenced to eight years in the ██████████. Consequently, you were notified of your pending administrative processing by reason of conviction by a civil court during term of military service. Ultimately, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service and you were so discharged on 15 May 1985. You were discharged in absentia.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 your contentions that: (1) you accept full responsibility for your actions, (2) you received eight years in prison of which you served over four years, (3) your actions prevented you from decent employment, (4) you were the victim of childhood abuse from your parents, (5) as a result you were sent to a facility where you experienced additional abuse to include sexual abuse, (6) you were introduced to alcohol while in the Navy and enjoyed the way it made you feel, (7) your alcoholism led to disciplinary problems, (8) post-discharge you ultimately attended rehab and AA (alcoholics anonymous), (9) you have been sober since 1994, still attend AA meetings, and have been sponsoring men who attend AA for 28 years, and (10) you are also married and believe if you received support for your alcoholism during service you would have remained in the Navy for 30 years. Additionally, the Board noted you checked the "Other Mental Health" box on your application but chose not to respond to the 30 October 2024 letter from the Board requesting evidence in support of your claim. For purposes of clemency and equity consideration, the Board considered the evidence you submitted in support of your application.

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJP and civilian conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard for military authorities and regulations. Additionally, the Board considered the likely discrediting effect your civilian conviction had on the Navy. Therefore, the Board concluded your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service.

While the Board carefully considered the evidence you submitted in mitigation and commends you for your rehabilitation efforts and 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 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,

3/5/2025
