



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

Docket No. 11274-24
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 3 March 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 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 commenced active duty on 27 December 1977. On 15 January 1979, you commenced an eight-hour period of unauthorized absence (UA). On 16 April 1979, you commenced a period of UA, during which you were declared a deserter, that ended in your apprehension by civil authorities on 22 June 1979. On 3 August 1979, you received non-judicial punishment (NJP) for willfully disobeying a lawful order. On 7 August 1979, you were convicted at Special Court Martial of your UA and sentenced to reduction in rank to E-1, forfeitures, and confinement at hard labor.

On 21 August 1979, you received NJP for making a false official statement. On 13 December 1979, you received NJP for UA from your place of duty and falsifying a watch log. On 14 February 1980, you received NJP for violating a lawful general regulation by communing in a place where you knew the use of controlled substances was in progress. On 1 May 1980, you received NJP for willfully disobeying a Chief Petty Officer, being disrespectful in language to a DoD security officer, violating a lawful regulation, and making a false official statement. On

12 June 1981, you received NJP for a two-day period of UA and willful disobedience of a lawful order. On 6 July 1981, you commenced a period of UA that ended in your surrender on 8 July 1981. The same day, you commenced another period of UA that ended in your surrender on 27 July 1981. On 28 July 1981, you received NJP for UA and missing ship's movement. On 4 August 1981, you received NJP for UA from restricted muster.

On 14 August 1981, you commenced a period of UA, during which you missed movement twice, that ended in your surrender and restriction on 4 November 1981. The same day, you broke restriction and commenced a period of UA that ended in your apprehension by military authorities on 2 December 1981. On 3 December 1981, you commenced a period of UA that ended in your apprehension by civil authorities on 5 December 1981. You were issued an administrative remarks (Page 13) counseling indicating that conduct previously referred to trial by SPCM, on 4 January 1982, was reverted to discharge Under Other Than Honorable conditions (OTH).

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. Based on the information contained on your Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated on 12 February 1982 with an "Under Other Than Honorable Conditions" characterization of service, for the narrative reason for separation of "For the Good of the Service," with a reentry code of "RE-4," and a separation code of "KFS;" which corresponds to in lieu of trial by court-martial.

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 unduly influenced and led down a path of destruction by your fellow Sailors, you developed a substance abuse problem that lasted ten years, took over your life, and ruined your relationships, and that you have received treatment and turned your life around. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

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 NJPs, SPCM, and separation in lieu of trial by court-martial, 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 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. Additionally, the Board noted that the misconduct that led to your request to be discharged in lieu of trial by court-martial was substantial and determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial;

thereby sparing you the stigma of a court-martial conviction and possible punitive discharge.. Finally, the Board noted you provided no evidence, other than your statements 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. 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. 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,

