



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

██████████
Docket No. 11770-24
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 21 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 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 U.S. Navy and began a period of active duty service on 31 May 1979. Your pre-enlistment physical examination, on 16 March 1979, and self-reported medical history both noted no psychiatric or neurologic issues, symptoms, or history.

On 8 September 1979, you routed a humanitarian reassignment request in order to be close to your mother while she was experiencing a terminal illness. On 20 September 1979, you were reassigned to a command in ██████████. Following the death of your mother, you were transferred to a fleet command on or about 7 December 1979.

On 9 December 1979, you commenced an unauthorized absence (UA) when you failed to comply with your transfer orders. Your UA terminated on 29 December 1980. Following your return to military control, on 19 February 1981, you submitted a voluntary written request for an

administrative discharge for the good of the service under Other Than Honorable conditions (OTH) in lieu of trial by court-martial for your 386-day UA offense. As a result of this course of action, you were spared the stigma of a court-martial conviction for your long-term UA, as well as the potential sentence of confinement and the negative ramifications of receiving a punitive discharge from a military judge. Prior to submitting this voluntary discharge request, you conferred with a qualified military lawyer, at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. You acknowledged that if your request was approved, your characterization of service will be OTH.

In the interim, on 24 February 1981, your separation physical examination noted no psychiatric or neurologic conditions or symptoms. On 2 March 1981, the Separation Authority approved your voluntary discharge request for the good of the service in lieu of trial by court-martial. Ultimately, on 10 March 1981, you were separated from the Navy in lieu of a trial by court-martial with an OTH discharge characterization and were assigned an RE-4 reentry code.

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 for a discharge upgrade and contentions that: (a) you made dumb decisions when your mother passed away back then but, despite that confusing and unsettling time in your service, you served with honor and dignity representing your country and the Navy, (b) it's been many years since you wore that uniform but would do it again today and stand up for your country and freedoms, (c) not long after getting out, you met and married your wife, (d) you raised her two kids, had three of your own, and you made sure they had good foundations while doing your best to teach them to stand tall proud and do their utmost best to have no regrets as you have had, and (e) you and your wife of 40 years are at home alone which has given you time to reflect and act on your regrets. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application, which consisted solely of the information you provided on your DD Form 149 application.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record of service was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The simple fact remains is that you left the Navy while you were still contractually obligated to serve and you went into a UA status without any legal justification or excuse for 386 days. The Board determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

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 in 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,

3/14/2025

