



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

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Docket No. 12320-24
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 10 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, 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy and began a period of active duty on 25 May 1982. Upon your enlistment, you admitted to a preservice arrest and use of marijuana. On 10 September 1983, you began a period of unauthorized absence (UA) which lasted two days. On 14 December 1983, you were counseled concerning your failure to report to your appointed place of duty and advised that failure to take corrective action could result in administrative separation. Between 25 January 1984 and 17 February 1984, you commenced three periods of UA totaling 15 days and 35 minutes and resulting in your conviction by summary court martial (SCM) on 7 March 1984. You were sentenced to reduction in rank to E-2, restriction, and extra duty. On 8 March 1984,

you were counseled concerning your previous infractions and advised that failure to take corrective action could result in administrative separation.

On 12 April 1984, you received nonjudicial punishment (NJP) for five periods of UA and disobeying a lawful order. You were awarded forfeitures and correctional custody for 30 days. Subsequently, you were counseled concerning your previous infractions leading to NJP and advised that failure to take corrective action could result in administrative separation. On 2 August 1984, you began a period of UA which lasted 26 days. On 30 August 1984, you received a second NJP for a period of UA, disrespectful language, two instances of dereliction of duty, making a false official statement, and forgery. As part of your punishment, you were reduced to E-1.

Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct and commission of a serious offense. You decided to waive your procedural rights, and your commanding officer recommended your discharge with an Other Than Honorable (OTH) characterization of service. The separation authority approved the recommendation based on a commission of a serious offense and you were so discharged on 3 October 1984.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for relief. The NDRB denied your request, on 17 May 1985, after determining your discharge was proper as issued. On 25 January 2006, this Board denied your initial request for a discharge characterization upgrade.

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) your commanding officer promised that your discharge was going to be upgraded after four years of good conduct, (b) your rank is erroneously reflecting as E-1 vice E-3, (c) your record needs to be corrected for Department of Veterans Affairs healthcare purposes, (d) you did not violate any OSHA safety rules or regulations. For purposes of clemency and equity consideration, the Board noted you provided a copy of your veteran's information sheet and ██████████ Identification Card.

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 SCM, 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 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. Additionally, the Board noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. Furthermore, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities. Finally, the Board found no evidence of error in your paygrade based on your record of misconduct

processing that document you were appropriately reduced to the paygrade of E-1 before your administrative separation.

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 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 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,

3/31/2025

