



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

Docket No. 12425-24
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 12 May 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 14 June 1977. On 27 September 1977, you reported to medical indicating you wanted to be discharged from the Navy because you joined to spite your parents. You were given a provisional diagnosis of immature personality that existed prior to entry and referred for a psychiatric evaluation. On 30 September 1977, your psychiatric evaluation determined you lack motivation for active duty but found no psychiatric diagnosis was warranted.

On 20 October 1977, you received non-judicial punishment (NJP) for unauthorized absence (UA) for failure to go to appointed place of duty. On 15 February 1978, you commenced a period of UA that ended on 22 February 1978. On 1 March 1978, you received NJP for two specifications of UA. On 28 September 1978, you received NJP for three days of UA. On 29 September 1978, you commenced a period of UA that ended on 17 October 1978. On 16 November 1978, you received NJP for missing movement and breaking restriction. On

15 December 1978, you received NJP for failure to obey a lawful order. On 10 January 1979, you received NJP for eleven specifications of two hour UAs. On 23 October 1979, you were arrested by civil authorities for possession of marijuana. On 12 March 1980, you were issued an administrative remarks (Page 13) counseling concerning deficiencies in your performance and/or conduct. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. On 28 July 1980, you commenced a period of UA that ended on 30 July 1980. Upon your return, you immediately commenced another period of UA that ended on 25 August 1980. Upon your return, you again commenced a period of UA that ended on 26 August 1980. On 29 August 1980, you received NJP for three specifications of UA. On 4 September 1980, you received NJP for thirty-five specifications of UA for missing restricted muster, disobeying a petty officer, and dereliction of duty. On 17 November 1980, you received a Counseling and Assistance Center (CAAC) evaluation for substance abuse and were found to be a drug abuser and not dependent. You subsequently declined assistance. On 16 December 1980, you commenced a period of UA that ended on 21 December 1980. On 22 December 1980, you received NJP for UA.

On 23 December 1980, you were convicted at Special Court Martial (SPCM) of eleven specifications of UA, disobeying a lawful order, and breach of restriction. You were sentenced to forfeitures, confinement, and a Bad Conduct Discharge (BCD). On 10 February 1981, the SPCM Convening Authority (CA) suspended the portion of your sentence adjudging a BCD and forfeitures in excess of three months for a period of one year; provided you committed no further misconduct during that time. On 6 March 1981, you were released from confinement and returned to duty. On 12 July 1981, you received NJP for unlawful attempt to sell stolen property, dereliction of duty, larceny, concealing stolen property, and UA. Consequently, the suspension of your BCD was vacated and, after the findings and sentence in your SPCM were affirmed, you were issued a BCD on 4 May 1983.

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 your misconduct was a result of you becoming an alcoholic and drug addict due to influence from older Sailors. You also checked the "Other Mental Health" box on your application but chose not to respond to the 30 December 2024 letter from the Board requesting evidence in support of your claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted your petition, a letter from Navy Personnel Command in response to your request for a discharge upgrade, and excerpts from your service record.

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 and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. The Board determined that illegal drug involvement by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board also 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 BCD. 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 observed that you were already given substantial clemency when your BCD was initially suspended; however, you continued to commit misconduct and failed to take advantage of the opportunity you were given. Finally, the Board noted, contrary to your contention, that you were not drug dependent at the time and you refused assistance. Therefore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not 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 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,

5/30/2025

