



Docket No. 0185-25
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 5 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 United States Navy and began a period of active duty on 30 December 1980. On 21 July 1981, you received non-judicial punishment (NJP) for an unauthorized absence (UA) totaling six days. On 21 October 1982, you commenced a period of UA that ended on 3 November 1982. On 15 November 1982, you commenced a period of UA that ended on 24 November 1982. On 16 December 1982, you received your second NJP for these periods of UA. You were subsequently issued a counseling warning and advised that any further deficiencies in performance and or continued misconduct may result in disciplinary action and in processing for administrative discharge. On 23 December 1982, you commenced another period of UA that ended on 14 February 1983. On 23 February 1983, you were convicted by summary court-martial (SCM) of the previous period of UA. Consequently, you were notified of administrative separation processing for commission of a serious offense. The commanding officer forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy with an Other Than Honorable

(OTH) characterization of service. The separation authority accepted the recommendation and you were so discharged on 13 April 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 upgrade your discharge character of service and contentions that: (1) you were unable to obtain your service record, (2) it has been over 41 years and you did not know the channels to go through until now, (3) your service contributed to traumatic experience, (4) your service jacket was taken by recruiters in 1983 and never returned, (5) you were charged with an over payment, (6) one of your recruiter's has since passed away, and (7) you don't know what is in your service record. Additionally, the Board noted that you checked the "Other Mental Health" box on your application but chose not to provide any evidence in support of your claim. For purposes of clemency and equity consideration, the Board considered the totality of your application.

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 NJP and SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct 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.

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 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,

3/27/2025

