



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

██████████
Docket No. 970-25
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 7 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 27 October 1981. Your enlistment physical examination, on 21 August 1980, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms. On 12 March 1982, you reported for duty with the ██████████ Detachment at ██████████.

After five (5) days after reporting on board your command, on 17 March 1982, you commenced a period of unauthorized absence (UA). On 20 April 1982, your command declared you to be a deserter. Your UA terminated with your arrest by civilian authorities on 29 June 1982. You ultimately returned to your command on 3 July 1982.

On 23 July 1982, pursuant to your guilty plea, you were convicted at a Special Court-Martial (SPCM) of your 104-day UA. The Court sentenced you to a discharge from the Navy with a Bad

Conduct Discharge (BCD). On 14 October 1982, the Convening Authority approved the SPCM sentence as adjudged.

On 30 November 1982, the U.S. Navy-Marine Corps Court of Military Review affirmed the SPCM findings of guilty and sentence. Upon the completion of SPCM appellate review in your case, on 8 April 1983, you were discharged from the Navy with a BCD 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 had a son that died, could not comprehend it, could not handle it, and you didn't want to hurt anyone on board, and (b) you knew you were wrong for going UA. 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 what you stated on your DD Form 149 without any additional documentation for the Board's consideration.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious to deserve an 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 the record reflected that your misconduct was intentional and willful and demonstrated you were unfit for further service. The Board also 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.

The Board also noted that, although it cannot set aside a conviction, it might grant clemency in the form of changing a characterization of discharge; even one awarded by a court-martial. However, the Board concluded that, despite your contentions, this was not a case warranting any clemency as you were properly convicted at a SPCM of serious misconduct. The simple fact remained 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 a total of 104 days.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board 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,

2/27/2025

