



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

[REDACTED]
Docket No. 1074-25
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 21 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 to 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 after being granted a moral waiver for a pre-service arrest for reckless driving and began a period of active duty on 10 February 1976. On 22 November 1976, after failing three personnel inspections, you were administratively counseled that your military appearance did not conform to the standards of the Navy or of the Naval Submarine School. On 10 December 1976, you were subject to nonjudicial punishment (NJP) for a violation under Article 86 of the Uniform Code of Military Justice (UCMJ) due to an unauthorized absence from your appointed place of duty. Subsequently, due to your unreliability, you were disqualified from assignment to nuclear weapons positions. You then absented yourself without authority, from 30 June 1977 through 5 June 1977, for which you received your second NJP for violation of Article 86 of the UCMJ. You incurred two additional prolonged periods of unauthorized absence (UA) from 9 October 1977 through 9 November 1977 and 23 November 1977 through 3 December 1977, for which you received a third NJP on 5 January 1978.

Following your return from your UA in December 1977, you were granted a drug use exemption and were enrolled into a counseling program to assist you in avoiding further illegal drug use.

An April 1978 update to your drug exemption reported that you had been screened as drug dependent, identified as priority I for treatment, and transferred to a medical hold unit to liaison for detoxification treatment. Your clinical records from 8 June 1978 indicate that you had performed poorly in the drug therapy program due to lack of motivation and were not recommended for retention due to being unable to benefit from further treatment.

In July 1978, you received an additional three NJPs for a total of five specifications of UA, two violations of Article 92 by disobedience of lawful written orders, and an offense under Article 134 for breaking restriction. Consequently, you were notified of processing for administrative separation by reason of misconduct due to your frequent involvement of a discreditable nature with a least favorable potential characterization of service as under Other Than Honorable (OTH) conditions. Upon your election to waive your right to a hearing before an administrative separation board, you were placed into an administrative leave status and issued a Certificate of Release or Discharge from Active Duty (DD Form 214) reflecting your discharge on 24 July 1978. On 15 August 1978, a naval letter from the Naval Drug Rehabilitation Center to the Chief of Naval Personnel stated that you had been separated from the naval service, on 24 July 1978, in accordance with applicable Bureau of Naval Personnel instructions and were recommended for discharge under OTH conditions. In response, a message from the Chief of Naval Personnel directed that you be separated with a "general misconduct discharge." Subsequently, you were issued a Correction to Certificate of Release or Discharge from Active Duty (DD Form 215) specifying that your type of characterization issued was "UNDER HONORABLE CONDITIONS" (GEN) reflective of type warranted by service record; in light of your low military behavior trait average of only 2.65.

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 and your contentions that you were young and immature at the time of your service, have been a model citizen since your discharge, and have always been fully employed. You also state that you were 17 when you enlisted and were influenced by older sailors. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your petition without any other additional documentation.

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 drug abuse, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included drug offenses.

The Board determined that illegal drug use 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. Additionally, the Board 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 GEN 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. To the extent that you were originally recommended for discharge under OTH conditions, the Board concurred with your command that your six NJPs warranted an OTH characterization and that you were already afforded substantial clemency in being granted a GEN characterization of service. Finally, the Board noted that you did not submit any evidence

in support of your post-discharge character or accomplishments for consideration of a possible grant on the basis of clemency other than the general factors you mentioned in your application form.

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 is attached 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,

4/10/2025

