



Docket No. 1105-25
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 28 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You previously applied to this Board for an upgrade to your characterization of service and were denied relief on 8 October 2002. Before this Board's denial, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade, on 27 August 1979, based on their determination that your discharge was proper as issued. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

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) per President Ford in 1975, your administrative discharge is no longer a valid discharge and should have been changed to a different discharge, (2) you signed documents to have bonds sent home to your spouse and she never received them, (3) you commenced a period of unauthorized absence because you did not want to go and fight and take another life, and (4) you do not desire benefits but desire to go to your grave with a better discharge. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149, your personal statement, 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 summary court-martial, special court-martial, and request for good of the service (GOS) discharge in lieu of trial by court-martial, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard of 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 Other Than Honorable 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.

The Board also noted that the misconduct that led to your request to be discharged in lieu of trial by court-martial was substantial and determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial; thereby sparing you the stigma of a court-martial conviction and possible punitive discharge¹. Therefore, the Board concluded the record reflected that your misconduct was intentional and willful and demonstrated that you were unfit for further service.

Finally, the Board found no evidence you were the recipient of a presidential pardon and noted that you did not meet the criteria for relief under Presidential Proclamation 4313 (1974).

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. While the Board carefully considered the evidence you submitted in mitigation, 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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

¹ The Board noted you were sentenced to a Bad Conduct Discharge as part of your special court-martial conviction that was not approved. The Board found this was evidence of additional substantial clemency you received prior to your request to be discharged for the GOS.

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,

6/16/2025

