



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

██████████  
Docket No. 3377-25  
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 9 June 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 this 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 15 July 1971. On 10 February 1973, you received non-judicial punishment (NJP) for unauthorized absence (UA) from your appointed place of duty and disobeying a lawful order. On 1 April 1974, you were arrested, and later convicted in a civilian court in Jacksonville, Florida, for driving while intoxicated, speeding, and carrying a concealed weapon. You were sentenced to fines and loss of your driving license for three months. On 23 August 1974, you were convicted at Summary Court-Martial (SCM) of UA for 15 days, disobeying a lawful order, and misappropriation of private property. You were sentenced to forfeiture of \$200 per month for one month and confinement for 13 days.

On 15 January 1975, you signed a permissive authorization for search and seizure allowing officials to search your personal effects and barracks room related to suspicion of use, possession, and sale of drugs. You acknowledged and waived your rights, agreeing to make a statement to investigators without assistance of counsel; however, no statement exists in your

Official Military Personnel File (OMPF). The results, if any, of the search are also not present in your OMPF.

Unfortunately, some documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. An administrative remark annotates you submitted a request for an undesirable discharge for the good of the service on 24 February 1975. This request was approved on or about 28 February 1975. In the absence of evidence to the contrary, it is presumed that prior to submitting this voluntary discharge request, you would have conferred with a qualified military lawyer, been advised of your rights, and warned of the probable adverse consequences of accepting such a discharge. As part of this discharge request, you would have acknowledged that your characterization of service upon discharge would be an OTH. Based on the information contained on your Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated, on 13 March 1975, with an Under Other Than Honorable Conditions (OTH) characterization of service.

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 characterization of service and your contentions that in February 1975 you were accused of selling hash to another Sailor, you did not commit this crime, the crime was never proven, you were given the choice of an undesirable discharge or six months in prison, you would have to make up the lost time and then receive a General discharge, you chose the undesirable discharge, you were railroaded, your locker was searched and nothing was found, nothing had ever been there, someone accused you in order to cover themselves, and that you served at a time when military service was looked down on but you are still proud to have served. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 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 NJP, civilian conviction, SCM conviction, and request to be discharged for the good of the service, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and 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 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. Finally, the Board noted you provided no evidence, other than your statement, to substantiate your contentions. Therefore, the Board determined the presumption of regularity applies to your case.

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,

6/24/2025

