



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

[REDACTED]
Docket No. 7022-25
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]

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 15 August 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 enlisted in the U.S. Navy and began a period of active duty service on 23 May 1973. You received an enlistment waiver for your pre-service marijuana use. Your pre-enlistment physical examination, on 16 August 1972, and self-reported medical history both noted no psychiatric or neurologic issues, conditions, or symptoms. Following initial recruit training, you reported for duty on board the [REDACTED].

On 23 January 1975, you received non-judicial punishment (NJP) for failing to obey a lawful

general order by being in possession of marijuana, and for conduct unbecoming a member of the armed forces. You did not appeal your NJP.

On 7 March 1974, your command transmitted a message regarding you to the Chief of Naval Personnel (CNP) entitled, "Disposition Recommendation." The message indicated that you used heroin two (2) times, in December 1973, but that there was no disciplinary action pending.

On 2 May 1975, you received NJP for: (a) two (2) separate specifications of unauthorized absence (UA), and (b) failing to obey a lawful order. You did not appeal your NJP. On the same day, your command issued you a "Page 13" retention warning (Page 13), documenting your repeated involvement of a discreditable nature with military authorities. The Page 13 expressly advised you that continued behavior of this nature could lead to an administrative discharge by reason of unfitness under conditions other than honorable.

On 30 May 1975, you were convicted at a Summary Court-Martial (SCM) of the willful disobedience of a superior commissioned officer. The SCM Officer sentenced you to hard labor without confinement for thirty (30) days, a reduction in rank to the lowest enlisted paygrade (E-1), restriction for forty-five (45) days, and an oral reprimand.

On 1 October 1975, you commenced a period of UA that terminated on 8 December 1975. On 3 February 1976, you were convicted at a Special Court-Martial (SPCM) of your 67-day UA. The Court sentenced you to confinement at hard labor for sixty-five (65) days and forfeitures of pay.

Your command subsequently notified you of administrative separation proceedings by reason of frequent involvement of a discreditable nature with military/civilian authorities. On 23 February 1976, you voluntarily requested an immediate discharge in lieu of awaiting final action, and you expressly stated that you understood that the ultimate reason, character and type of separation would be determined by the CNP. Ultimately, on 26 February 1976, you were separated from the Navy for unfitness (misconduct) with a General (Under Honorable Conditions) ("GEN") discharge characterization and 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 have been a model citizen for the last 50+ years, and (b) from 2016 to 2020 you held a DoD security clearance. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the evidence you provided in support of it.

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 as to deserve a discharge 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 that characterization under GEN or under Other Than Honorable conditions (OTH) is generally warranted for misconduct and is appropriate when the basis for

separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The Board noted that the simple fact remains is that, in addition to your two (2) NJPs, drug abuse, a Page 13 warning, and an SCM conviction, 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 approximately sixty-seven (67) days. The Board determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your cumulative misconduct and disregard for good order and discipline clearly merited your discharge. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge rehabilitation, 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 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,

8/18/2025

Executive Director

Signed by: _____