



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

Docket No. 9399-25
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 24 March 2026. 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.

The following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

1. You enlisted in the Navy and commenced a period of active duty on 20 October 1959. After a period of continuous Honorable service, you immediately reenlisted and entered a second period of active duty on 9 November 1962.¹

¹ You were issued a separate DD Form 149 for your first enlistment period.

2. On 30 March 1963, a special court-martial (SPCM) convicted you of using alcohol while on board ship, and drunk and disorderly conduct.

3. On 23 August 1963, you commenced a period of unauthorized absence (UA).

4. On 26 August 1963, you were arrested by civil authorities of breaking and entering with the intent to commit larceny. Your period of UA terminated when you were delivered to military control in 24 September 1963.

5. On 24 October 1963, you were convicted in state court of your breaking and entering with intent to commit larceny offense. You were sentenced to six months in jail and a \$200 fine.

6. On 25 October 1963, you received non-judicial punishment (NJP) for your period of unauthorized absence (UA) after your civilian arrest, another brief UA after your return, and breaking restriction.

7. Consequently, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. After you elected to waive your rights, your commanding officer (CO) forwarded your packet to the separation authority (SA) recommending your discharge with an Undesirable (Other Than Honorable (OTH)) characterization of service.

8. In the meantime, an Enlisted Performance Evaluation Board (EPEB) also recommended you be separated with an OTH characterization of service.

9. The SA approved the recommendations and you were so discharged on 4 December 1963.

In your application to this Board, you express a desire for your discharge character of service be upgraded and contend that:

1. You did not request a court martial. After you were returned to the Navy, you mouthed off and regret your actions.

2. Your record shows you were good enough to be allowed to reenlist for six years after your first enlistment period.

3. You blacked out due to excessive drinking and woke up in jail not remembering anything.

4. You have been sober for 46 years since joining AA, went to chef's school, got married, and became a father and grandfather.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately processed for administrative separation based on your record of misconduct during your second enlistment period. While the Board carefully considered your contentions that you blacked out due to excessive drinking, the Board

noted you did not provide any evidence, other than your statement, to substantiate your allegations. Further, the Board noted that you were convicted of your civilian misconduct and you do not deny committing the other misconduct in your record. Therefore, the Board determined the presumption of regularity applies to the finding that you committed the misconduct that formed the basis of your administrative separation and were properly separated for misconduct with an OTH characterization of service. The Board found no error with your record.

The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your contentions, your desire for a upgrade to your characterization of service, the totality of your service, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your rehabilitation efforts, your advanced age, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, the Board found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunity to correct your conduct deficiencies after your SPCM 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. Additionally, The Board also considered the likely discrediting effect your civil arrest and conviction had on the Navy. Therefore, even taking into consideration all the mitigation factors in your case, the Board found that your misconduct while on active duty outweighed the mitigation evidence offered. The Board noted your Honorable first enlistment period but considered you already received an Honorable discharge for that period of service. Finally, the Board believed that it would be unjust to characterize your less than honorable service in the same manner as the service of the thousands of service members who, unlike you, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. While the Board commends you for your post-service rehabilitation efforts and accomplishments, ultimately, the Board concluded an upgrade of your discharge characterization of service is not warranted in the interests of justice.

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,

4/8/2026

