



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

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Docket No: 6229-20

Ref: Signature Date

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Dear ■

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 the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application was denied.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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 30 November 2020. The names and votes of the members of the panel 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.

You enlisted in the Navy and began a period of active duty on 30 August 1993. On 6 June 2000, you began an unauthorized absence (UA) that ended on 21 March 2002. Your original service record was incomplete and did not contain all of the documentation pertaining to your separation from the Navy. Notwithstanding, the Board relied upon the presumption of regularity and presumed that the officials acted in accordance with governing law/policy and in good faith. According to the available documentation, you were charged with UA upon your return. You subsequently requested for administrative separation under other than honorable (OTH) conditions in lieu of trial by court-martial. On 24 April 2002, the Convening Authority approved your request, and on 3 May 2002, you were discharged with an OTH characterization of service.

You requested an upgrade of your discharge to Honorable or General. You stated that it has been 18 years since you left the United States Navy, and you have been tirelessly attempting to upgrade your discharge. You admitted you clearly understand that you violated the Uniform Code of Military Justice and have moved on with a heavy burden. You asserted you would like to be redeemed of all wrongdoing for the sake of your family's well-being, as well as for self-cleansing. You also asserted it would be very endearing to you if the board would upgrade your discharge so you can receive benefits. The Board concluded these factors and assertions were not sufficient to warrant a change to your discharge status, given your misconduct, and your administrative separation upon your request.

The Board also reviewed your application under the recent guidance provided in the Under Secretary of Defense's memorandum dated 25 July 2018 entitled, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations" (USD Memo). The purpose of the USD Memo is to ease the process for veterans seeking redress and assist Boards for Correction of Military/Naval Records (BCM/NRs) "in determining whether relief is warranted on the basis of equity, injustice, or clemency." The USD Memo sets clear standards and principles to guide BCM/NRs in application of their equitable relief authority, and further explains that boards shall consider a number of factors to determine whether to grant relief. However, even in light of the USD Memo, the Board still concluded given the totality of the circumstances and your lengthy UA, your request does not merit relief.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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,

12/19/2020

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Executive Director

Signed by: █