



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: 1466-21
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 November 2021. 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).

You enlisted in the Navy and began a period of active duty on 2 April 1982. On 27 December 1983, you were issued an Administrative Remarks (Page 13) indicating that you participated in the September 1983 Navy-Wide Advancement Substitute Examination. On 3 February 1984, you received non-judicial punishment (NJP) for falsifying official records. On 29 March 1984, you were selected for advancement to Aviation Support Equipment Technician (Mechanical) Petty Officer Third Class (ASM3). On 1 April 1985, you were informed and acknowledged that you were not eligible for reenlistment and that an entry to that effect has been made in your service record. On 1 April 1985, at the expiration of your term of active obligated service, you were released from the Navy with an honorable 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 submission of supporting documentation and your desire

to have your record corrected of errors, fraudulent days, dates, duty stations, evaluations, and the “not eligible for advancement and reenlistment” entry. The Board considered your contentions that 1) your Enlisted Performance Records contains erroneous, fraudulent and unwarranted entries; 2) your Enlisted Performance Records are missing due to a vindictive superior commissioned officer not accepting your medical diagnosis; 3) The entry stating “Late Entry 84 Feb 03 for CO’s NJP,” is fictitious and fraudulent because you feel that a late entry cannot be put into the record a day earlier than the supposed NJP the following day. This was an obvious retaliatory action for you departing the ship for medical treatment.

Unfortunately, the documents pertinent to your request are not in your official military personnel file (OMPF). Notably absent are the evaluation report and counseling records for the periods in question. 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 (as is the case at present), will presume that they have properly discharged their official duties. Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your statement and supporting documentation were insufficient to substantiate that there was error or injustice. Regarding your contention of a late entry into your record, the Board noted that you receive NJP on 3 February 1984, the court memorandum (Page 7) dated 4 February 1984 is the reporting document of your NJP. The Board concluded the entry is not in error, and you provided no supporting documentation to support your contention that it was an “obvious retaliatory action.” 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,

12/12/2021

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Executive Director

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