



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

█
Docket No: 1467-21

Ref: Signature Date



Dear Petitioner:

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 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 23 July 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 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, including 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 a period of active duty on 19 December 1988. On 8 March 1990, you received nonjudicial punishment for failing to go to your appointed place of duty. You were in an unauthorized absence status from 30 May to 2 June 1990, 3 to 6 June 1990, 7 June to 8 July 1990, and 14 July to 30 October 1990. On 7 June 1990, you missed the sailing of your ship. On 9 January 1991, you were convicted by a special court-martial for two periods of unauthorized absence, missing ship's movement, resisting arrest, and assault. After your court-martial conviction, you were notified of the initiation of administrative separation processing, and you elected to have an administrative discharge board. On 26 February 1991, your administrative discharge board found that you committed misconduct, that you should be discharged, and that your characterization of service should be other than honorable. On 14 March 1991, your commanding officer recommended that you be discharged with an other than honorable characterization of service, and on 23 April 1991 you were so discharged.

The Board carefully considered all potentially mitigating factors in your current petition to determine whether the interests of justice warrant relief in your case including in accordance with the Wilkie Memo. You contend in your petition that you take personal accountability for your actions. You further contend that your command made an error in discretion by not giving you the opportunity to overcome your misconduct and continue serving. You state that your evaluation marks demonstrate that you were more than capable of continued personal growth and professional growth if your command had given you the chance. You also contend that, post-service, you have been employed at the same employer for over ten years, and you provided letters of reference in support.

In review of all of your materials, the Board did not find an injustice in your record warranting relief. With respect to your contention that your command made an error in discretion by not providing you the opportunity to overcome you misconduct, which is supported by your evaluation marks, the Board determined that your court-martial conviction and subsequent discharge were proportionate to the misconduct you committed while on active duty. With respect to your submission of post-service clemency materials, the Board applauded you for your continued efforts, but determined that the materials you submitted were not sufficient for it to find that relief was warranted. In conclusion, given the totality of the circumstances, as well as a review of your overall service record, which included a nonjudicial punishment as well as a conviction by summary court-martial for the use of marijuana, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon the 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,

7/28/2021

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Executive Director

Signed by: █