



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: 1490-21
Ref: Signature Date

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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 7 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 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).

Your application was reviewed under the Don't Ask, Don't Tell Repeal Act of 2010, and the Under Secretary of Defense Memo of 20 September 2011 (Correction of military records following repeal of 10 U.S.C. §654), the Board can grant a request to upgrade a discharge that was based on homosexuality when two conditions are met: (1) the original discharge was based solely on "Don't Ask Don't Tell" (DADT) or similar policy, and (2) there were no aggravating factors such as misconduct.

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 Navy and began a period of active duty on 9 December 1964. On 2 July 1965, you received non-judicial punishment (NJP) for going on liberty without a liberty card.

On 26 June 1965, you underwent a medical evaluation. You were evaluated for cutting your wrists. During your evaluation you admitted to the commission of homosexual acts, theft, and drinking prior to your enlistment in the Navy. On 30 June 1965, you underwent another medical evaluation. You were diagnosed with Sociopathic Personality, Existing Prior to Enlistment (EPTE), and as a result you were recommended for discharge. On 13 July 1965, you were notified of the initiation of administrative separation proceedings due to unsuitability. On 14 July 1965, your commanding officer recommended your discharge from the naval service due to unsuitability. On 27 July 1965, the discharge authority approved and directed your discharge with a general characterization of service by reason of unsuitability. On 9 August 1965, you were so discharged.

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 and Under Secretary of Defense Memo of 20 September 2011 (Correction of military records following repeal of 10 U.S.C. §654). These included, but were not limited to, your desire to upgrade your discharge. The Board noted your discharge was not based on homosexuality. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, your discharge was initiated based on a medical condition, which was determined to have existed prior to your enlistment. 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,

7/19/2021

[REDACTED]
Executive Director

Signed by: [REDACTED]