



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. 1503-21
Ref: Signature Date

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Dear █

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.

A three-member panel of the Board, sitting in executive session, considered your application on 7 April 2021. 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, applicable statutes, regulations, and policies to include the 2018 Under Secretary of Defense Memo on Guidance to Military Discharge Review Boards and Boards for Correction of Military / Naval Records 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 Board carefully considered your arguments that you deserve an upgrade to your characterization of service and a change to your narrative reason for separation to disability based on Post-Traumatic Stress Disorder (PTSD). You were previously denied relief by the Board on 1 September 2016 and 18 June 2020 based on evidence that you did not qualify for disability benefits due to your state criminal conviction for drug possession with intent to distribute. As new evidence, you provided two undated, unsigned, and nonnotarized affidavits that purport to clear you of misconduct that formed the basis for your 31 October 1984 conviction in the State of █. Unfortunately, the Board was not persuaded by your new evidence.

In reviewing the affidavits you provided, the Board felt they did not possess sufficient credibility to merit overlooking your 1984 conviction. Neither affidavit is signed, and the one that provides exculpatory evidence regarding your guilt is from a deceased individual. When balanced against the fact your conviction was affirmed by the [REDACTED] Court of Appeal in 1986, the Board determined your new evidence was insufficient to change your characterization of service or narrative reason for separation since the Navy's actions were based on your State of [REDACTED] criminal conviction. Additionally, the Board found no evidence you were diagnosed with PTSD or suffered from a mental health condition at the time of your discharge or post-discharge to merit liberal consideration of your request for a discharge upgrade. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your record.

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,

4/9/2021

[REDACTED]

Executive Director

Signed by: [REDACTED]