



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. 4030-21
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 30 September 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).

A review of your record shows you entered active duty with the Navy in February 1984. During your relatively brief active duty service, you were involved in multiple alcohol related misconduct incident. Non-judicial punishment was imposed on you in May 1984 for urinating on the deck of your ship. You were convicted in civilian court in January 1985 of driving under the influence of alcohol. After you completed level II alcohol rehabilitation treatment, non-judicial punishment was imposed on you in September 1985 for being intoxicated for duty and absent from your appointed place of duty. Finally, you were again punished with non-judicial punishment for driving under the influence of alcohol in December 1985. As a result of your multiple incidents of misconduct, you were administratively separated for a pattern of misconduct on 27 January 1986 with an Other than Honorable characterization of service.

You commenced applying to this Board for an upgrade of your characterization of service in 2003. This Board denied your initial application for an upgrade on 10 September 2003 and subsequently denied reconsideration requests on 10 separate occasions, with the most recent denial occurring on 19 November 2020. Medical evidence provided with your application

documents that you suffer from multiple medical conditions including Post-Traumatic Stress Disorder (PTSD) and Schizoaffective Disorder. In addition, you provided evidence that the Department of Veterans Affairs has denied a service connection for treatment for many of your claimed disability conditions.

The Board carefully considered your arguments that you deserve a change to your narrative reason for separation to disability or an upgrade to your characterization of service to General under Honorable conditions. You argued that you suffered from PTSD and Schizophrenia based on your experiences in the Navy and asserted mitigation evidence concerning potential homelessness and poor social economic conditions. Unfortunately, the Board disagreed with your rationale for relief. In making their findings, the Board noted that an unfavorable advisory opinion was issued for the Board's January 2019 decision that stated your misconduct could not be attributed to your mental health condition.

First, the Board concluded that your narrative reason for separation remains appropriate. They determined the preponderance of the evidence does not support changing your narrative reason for separation to disability since you were ineligible for disability processing due to your pattern of misconduct discharge that resulted in an Other than Honorable characterization of service. Disability regulations directed that misconduct based administrative separation processing supersede disability processing. Further, the Board noted that you were not diagnosed with a qualifying disability condition at the time of your discharge to merit a referral to the Disability Evaluation System. You were diagnosed with excessive alcohol abuse on 11 December 1985; a non-compensable condition under the disability system. In making this finding, the Board noted that you were not diagnosed with any mental health conditions until many years after your discharge from the Navy.

Second, the Board determined the preponderance of the evidence does not support changing your characterization of service. Despite the mitigation evidence you provided, the Board was not persuaded that an injustice exists or clemency was warranted in your case. In making this finding, the Board found no nexus between your misconduct and your existing mental or physical conditions. The Board agreed with the previous advisory opinion that you, more likely than not, entered the Navy with preexisting alcohol abuse issues that were caused by preservice abuse. The Board noted that the Navy attempted to treat your alcohol abuse but was apparently unsuccessful based on your continued history of post-treatment alcohol abuse. As a result, the Board found no fault on the part of the Navy in your alcohol abuse related misconduct. In addition, the Board found no evidence to substantiate your allegation of the threat of sexual abuse and noted that you relayed to your medical provider that the alleged incident occurred in 1986. Since you were discharged in January 1986 after you had already committed the series of misconduct that formed the basis for your administrative separation, the Board found no nexus between your allegation of threat of sexual assault and your misconduct. Ultimately, while the Board sympathizes with your current physical and social economic condition, they concluded the mitigation evidence you submitted was insufficient to merit an upgrade to your characterization of service since your active duty service consisted of multiple incidents of misconduct that constituted a significant departure from behavior expected of a service member. The Board also considered that your misconduct was serious enough to qualify for punitive discharges under the Uniform Code of Military Justice. Consequently, the Board determined that the preponderance

of the evidence does not support an upgrade to your Other than Honorable characterization of service. 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,

10/5/2021

[Redacted signature area]

Deputy Director

Signed by: [Redacted name]