



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

Docket No: 4345-21
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 6 October 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 19 January 1979. On 8 November 1979, you received non-judicial punishment (NJP) for four specifications of unauthorized absence totaling 26 days. On 14 March 1989, you were convicted by general court-martial (GCM) of two specifications of unauthorized absence totaling 3,214 days. As punishment you were awarded confinement, forfeiture of pay, a bad conduct discharge (BCD). After the BCD was approved at all levels of review, you were discharged on 8 December 1989.

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 desire to upgrade your discharge character of service. The Board also considered your contention that when you were being processed for your discharge, your attorney informed you that your discharge character of service would be under

other than honorable (OTH) conditions. You further state that during your second meeting with your attorney you were then informed that your charges were being reduced to “Article 92, Unauthorized Absence with an OTH discharge.” You noted that after applying for a firearm permit, it came to your attention that your discharge is listed as “Dishonorable.”

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by an NJP and a SPCM conviction for two specifications of unauthorized absence that totaled 3,214 days and subsequent BCD, outweighed these mitigating factors. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief. The Board noted that your discharge characterization was not “dishonorable,” but rather BCD, as discussed above.

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,

10/22/2021

Executive Director