



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: 4821-21
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 18 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, 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).

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 Marine Corps Reserves on 8 July 1986 and completed two periods of active duty training (ADT). The first from 8 July 1986 to 27 March 1987, and the second from 14 June 1987 to 17 November 1987. For both periods of ADT you received honorable characterizations of service and were issued DD 214s. On 13 May 1990, you were counseled for tardiness, an improper uniform, and for reporting to your scheduled drill in need of a haircut. Although given an opportunity to provide a statement you chose not to. Subsequently, you received additional counseling entries documenting your inconsistent drill participation and unsatisfactory performance in the SMCR. Thereafter, based on the information contained in your record, you

accumulated a total of 40 unexcused absences from Inactive Duty Training. Subsequently, on 18 February 1991, you were notified via certified mail of your commanding officer's (CO) intent to process you for administrative separation by reason of unsatisfactory participation in the Ready Reserve. This notification advised that if separation was approved, the least favorable characterization of service authorized in your case would be other than honorable (OTH). The notification further advised you of your right to consult with counsel. While you did elect your right to consult with counsel, you waived your right to have your case heard before an administrative discharge board. On 29 January 1992, a staff judge advocate review of your case determined the proceedings were sufficient in law and fact. In a letter dated 6 February 1992, you were advised that, effective 14 February 1992, you would be discharged from the SMCR with an OTH characterization of service and assigned an RE-4 reenlistment code. On 14 February 1992, you were discharged with an OTH.

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 contentions that you experienced a series of horrible events to include developing a disability which prevented you from performing physical fitness tests on active duty, losing your home during a tornado, losing your transportation, being told your discharge would automatically be upgraded, and your assertion that you requested an administrative discharge after providing previous honorable service. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your repeated misconduct, as evidenced by a multitude of unexcused absences leading to your unsatisfactory participation in the SMCR, outweighed these mitigating factors. Further, no discharge is automatically upgraded due to the passage of time and/or an individual's good behavior after discharge. Additionally, the Board noted you did not submit advocacy letters or post-service documents to be considered for clemency purposes. 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 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 is attached 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,

10/31/2021

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Executive Director
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