



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: 4901-21

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 for Correction of Naval Records, sitting in executive session, considered your application on 10 September 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 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, 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 25 July 1978 and served honorably until May 1982. In May 1982, you began a second period of enlistment with a start of active duty date of 10 May 1982. You served honorably through 23 April 1987, when you were discharged and subsequently reenlisted for a third period of active duty. On 24 April 1987 you began your final period of enlistment. On 20 March 1992, you received nonjudicial punishment (NJP) for a period of UA from 16 to 22 February 1992. Administrative Remarks dated 19 October 1992 document that you began a period of unauthorized absence (UA) the same day. Routine Message Traffic dated 19 November 1992, declared you a deserter and noted that you had been UA since 0700 on 19 October 1992. Message Traffic dated 29 December 1992, documented that you were admitted to a civilian hospital on 17 December 1992, and that you returned to military control on 21 December 1992. Your record reflects that on 12 July 1994,

you were transferred to the Temporary Disability Retired List (TDRL) with an honorable characterization of service. On 20 January 1999, you were transferred from the TDRL to the Permanent Disability Retired List (PDRL).

In your application to the Board, you request that your record be corrected to remove a dishonorable discharge and a charge of desertion from your record. You contend that following a ██████████ State Police background check, you were informed that the ██████████ State Police determined that you were statutorily disqualified from retaining a concealed pistol license due to a dishonorable discharge with a violation of the Uniform Code of Military Justice, Article 85-87 (Desertion- Unauthorized Absence or Absence without Leave). You provide a letter from Macomb County Clerk Register of Deeds dated 17 June 2021, in which states in part “Dishonorable Discharge for . . . Desertion . . . on 17 December 1992.”

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. The Board also carefully reviewed the entirety of information reflected in your service record to determine whether your record contained error or injustice that merited corrective action. Your three Certificates of Release or Discharge from Active Duty (DD Form 214s) all reflect honorable characterizations of service. Additionally, your record reflects that after your honorable discharged in 1994, you were transferred from the TDRL to the PDRL with an effective date of 1 February 1999. The Board noted that your available record does not contain a Dishonorable Discharge for any of your three periods of active duty. The Board reviewed your March 1992 NJP, and considered the information related to your period of absence from October 1992 through December 1992. The Board weighed that your record reflects Administrative Remarks dated 19 October 1992 in which a period of unauthorized absence (UA) was documented; that Message Traffic dated 19 November 1992 declared you a deserter; and that Message Traffic dated 29 December 1992 documented that you were admitted to a civilian hospital on 17 December 1992, and that you returned to military control on 21 December 1992. The Board noted that neither administrative nor judicial action appears to have been taken against you for the period of absence from 19 October through 17 or 21 December 1992, and that your record does not contain a finding of desertion for UA on 17 December 1992. Although Message Traffic denotes that you were declared a deserter in November 1992, your record does not contain evidence or information that you were found guilty of desertion at either NJP or at court martial for the period of absence from October to December 1992 or that you were found guilty of UA or desertion on or beginning 17 December 1992. The Board reviewed your March 1992 NJP and found that you did not provide sufficient evidence to establish that the NJP proceedings were erroneous or unjust.

The Board found that the March NJP was executed without error or injustice, that your absence from October to December 1992 does not appear to have resulted in administrative or punitive action against you for a charge of desertion, and that your record does not reflect a Dishonorable Discharge. The Board concluded that since your record does not contain adverse information relating to a Dishonorable Discharge nor does your record contain an administrative or judicial finding of guilt of desertion on 17 December 1992, that corrective action is not warranted.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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,

9/10/2021

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Executive Director

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