



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

[REDACTED]
Docket No: 5835-21
Ref: Signature Date

[REDACTED]

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 3 November 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).

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.

On 12 January 1995, you completed a statement of understanding upon enlistment into the Marine Corps Reserves with an agreement for a six-year active reserve drill obligation. You began a period of active duty for training on 18 January 1995. You were subsequently released from your initial tour of active duty with an honorable characterization of service on 7 July 1995. On 9 March 1999, you were informed by your commanding officer (CO) that you were declared an unsatisfactory participant in the Selected Marine Corps Reserve by virtue of your failure to attend regularly scheduled drills without reasonable justification. On the same day, you were

reduced in grade to E-1. On 14 June 1999, you were forwarded notification of the initiation of administrative separation proceedings as a result of your failure to attend drill from 13 September 1998 to 11 June 1999, which totaled 36 missed drills. Your naval record reflects that on 3 July 1999 you failed to acknowledge your separation notification, thus waiving your procedural rights. On 6 August 1999, your commanding officer (CO) recommended your discharge with an other than honorable (OTH) character of service. On 18 October 1999, the discharge authority approved and directed your discharge with an other than honorable (OTH) characterization of service by reason of unsatisfactory participation in the Selected Marine Corps Reserve. On 27 October 1999, you were separated for the Marine Corps Reserve.

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 character of service to honorable and remove remarks of unsatisfactory participation, and your contentions that: (a) you were told you were no longer required to participate in reserve drill weekends; (b) you do not understand the reason for your reduction in rank, and other than honorable (OTH) character of service; (c) you had positive conduct in service and missed one drill weekend, which you made up for during your off time; and (d) you are unable add veteran's designation to your State ID. The Board noted you signed a six-year active reserve obligation on 12 January 1995. Therefore, the Board determined you were sufficiently informed of your service obligation. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined you failed to complete your six-year obligation in the United States Marine Corps Reserves (USMCR). The Board found you failed to provide evidence to support your contentions. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary will presume that they have properly discharged their official duties. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

In reference to your inability to obtain veteran designation on your State ID card, the Board does not have authority over your request and notes that your State of residence determines your eligibility and not BCNR.

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



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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,

12/3/2021



Executive Director

Signed by: