



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: 6046-21
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, sitting in executive session, considered your application on 17 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.

You enlisted in the Navy Reserve on 24 June 2002. During the period from February 2004 to December 2005, you accumulated 20 unexcused absences from scheduled drills. On 27 September 2005, your commanding officer (CO) notified you of your non-compliance, which could result in administrative separation. On 29 September 2005, your CO notified you by certificated mail of his intentions to recommend that you be separated from the Navy Reserve due to failure to participate in scheduled drills. You failed to return the acknowledgement resulting in you waiving your rights. On 8 December 2005, your CO forwarded your package to the separation authority (SA) recommending your discharge due to unsatisfactory participation, with a general under honorable conditions characterization of service and an RE-4 reenlistment code. The SA approved the recommendation, and on 13 January 2006, you were so discharged.

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 and contentions that you were denied Department of Veteran Affairs (DVA) benefits and you were pregnant and fell down iced stairs, which resulted in you being inequitably discharged from the Navy due to a lack of support and family and medical leave not being available. The Board also noted your contentions that senior leaders left you with junior Sailors who could not advise you on options to remain in the Navy, you served honorably and had no misconduct, and you are a productive citizen, mother, realtor, businessperson, community volunteer, and do charity in the community.

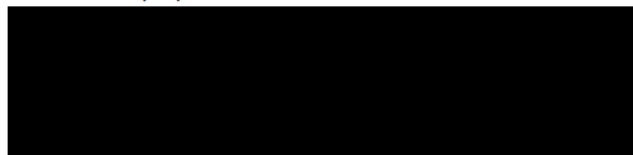
The Board noted whether or not you are eligible for benefits is a matter under the cognizance of the DVA, and you should contact the nearest office of the DVA concerning your right to apply for benefits. The Board noted that there is no evidence in your record, and you submitted none, to support your contentions that you were inequitably discharged from the Navy Reserve and senior leaders left you with junior Sailors who could not advise you on options to remain in the Navy. The Board also noted a Sailor's service is characterized at the time of discharge based on performance during the current enlistment. Lastly, the Board noted that, while commendable, your post-service conduct does not excuse your conduct while enlisted in the Navy Reserve or the basis for your discharge.

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 your failure to attend scheduled drills and failure to provide substantial documentation to support your contentions, outweighed these mitigating factors. 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 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

11/30/2021



Executive Director

Signed by: 