



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: 6091-21
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 20 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 21 August 1981. On 29 April 1982, you received non-judicial punishment (NJP) for an unauthorized absence. You were also issued an administrative remarks (Page 13) counseling advising you that you were being retained in the naval service; however, any further misconduct might result not only in you receiving disciplinary action, but in processing for administrative discharge. On 14 July 1982, you received your second NJP for an unauthorized absence and missing ship's movement. You were issued a Page 13 counseling, and you certified that you were being counseled concerning deficiencies in your military behavior and advised that any further misconduct of a discreditable nature with either civilian or military authorities may be grounds for administrative separation processing for a discharge under other than honorable (OTH) conditions. On 7 January 1983, you were issued a Page 13 counseling concerning deficiencies in your performance and/or conduct, specifically, your frequent involvement of a discreditable nature with military authorities. You were again

advised that any further misconduct might result not only in disciplinary action, but in processing for administrative discharge. On 22 August 1984, you received your third NJP for unauthorized absence and assault upon a noncommissioned officer. On 24 October 1984, you received your fourth NJP for five specifications of unauthorized absence and two specifications of failure to obey a lawful order.

On 25 October 1984, you were notified that you were being recommended for administrative discharge from the Navy because of misconduct due to pattern of misconduct. The notification advised that if separation was approved, the least favorable description of service authorized in your case would be under other than honorable (OTH) conditions. You were advised of, and waived, your procedural rights, including your right to consult with and be represented by military counsel, and your right to present your case to an administrative discharge board (ADB). Your commanding officer (CO) then forwarded your administrative separation package to the separation authority (SA) recommending administrative discharge from the Navy with an other than honorable (OTH) characterization of service. The SA approved the CO's recommendation and directed your OTH discharge by reason of misconduct due to pattern of misconduct. On 20 November 1984, 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 character of service, change your narrative reason for separation and reenlistment code, and to be reissued a Certificate of Release or Discharge from Active Duty (DD Form 214) with the appropriate changes made, and a Discharge Certificate. The Board also considered your contentions that: 1) your discharge was unfair at the time, and it is unfair now because it was procedurally defective; 2) you were unjustly and erroneously separated from the Navy; 3) the underlying basis of your separation was procedurally defective at the time of the discharge; 4) the adverse action was unfair at the time; 5) the OTH is inequitable now; and 6) clemency was never shown.

Based upon this review, the Board concluded that your potentially mitigating factors were insufficient to warrant relief. The Board noted you submitted supporting documentation in the form of your official military personnel file (OMPF); however, you did not provide any evidence supporting your contentions that your discharge was unfair, procedurally defective, you were erroneously separated, your OTH discharge was inequitable, and that there was an adverse action against you that was unfair. The Board determined that your misconduct, as evidenced by four NJPs and multiple formal written warnings concerning your military behavior, 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

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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,

11/6/2021



Executive Director

