



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: 6265-21
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.

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 15 December 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 Marine Corps on 18 October 1982. During the period from 2 December 1982 to 17 January 1984, you received two non-judicial punishments (NJP) for violating a lawful general order, failure to go at the prescribe time to appointed place of duty, and willfully disobeying a lawful order. On 25 January 1984, you received three warning counselings on your alcohol abuse, unauthorized absence (UA), and disobeying orders. On 21 February 1984, you received NJP for being absence from your appointed place of duty. On 7 May 1984, you were released from the residential rehabilitation clinic due to your failure to participate in the program. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to minor disciplinary infractions. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). The ADB found that you committed misconduct due to minor disciplinary infractions and recommended you receive a

general under honorable conditions characterization of service. The separation authority (SA) concurred with the ADB and directed a general discharge by reason of misconduct due to minor disciplinary infractions. On 30 August 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 be granted 24 months' time in service and contentions that you were never informed that you needed 24 months' time in service in order to receive Department of Veteran (DVA) benefits and you need DVA benefits due to you medical problems.

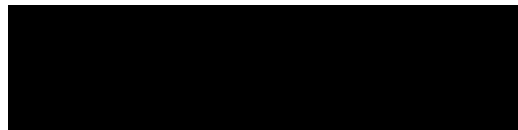
The Board noted that the record clearly shows that you served one year, ten months and 13 days on active duty, which makes you ineligible to receive credit for time you did not serve while on active duty. The Board also noted whether or not you are eligible for benefits is a matter under the cognizance of the DVA, and you should contact the nearest office of the DVA concerning your right to apply for benefits. If you have been denied benefits, you should appeal that denial under procedures established by the DVA.

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 three NJPs, warning counseling, and rehabilitation failure 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,

1/10/2022



Executive Director

Signed by: 