



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: 6554-21
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 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).

You enlisted in the U.S. Marine Corps and began a period of active duty on 16 October 1991. On 21 April 1992, you received your first nonjudicial punishment (NJP) for leaving your appointed place of duty. On 19 June 1992, you received an administrative entry documenting you were eligible for promotion to E-3 but not recommended due to your NJP. On 22 January 1993, you received a second NJP for stealing a leather jacket while on liberty. Not long after, on 20 March 1993, you received a third NJP for drunk and disorderly conduct. On 14 May 1993, you received an administrative remark for deficiencies in your professional performance due to numerous violations of the uniform code of military justice. This counseling further advised that failure to take corrective action would result in administrative separation. On 13 July 1993, you were given an opportunity to attend level III residential addiction treatment but refused to do so. On 15 July 1993, you were counseled regarding your refusal to participate in level III treatment and you chose not to make a statement. On 22 July 1993, you received a fourth NJP for failing to go to the alcohol rehabilitation department at the naval hospital on █

On 9 August 1993, a screening report from the substance abuse counseling center documented you were diagnosed as alcohol dependent on 29 June 1993. It further captured your level III treatment refusal and recommended you be administratively separated. On 26 August 1993, you were subsequently notified of your pending administrative separation due to your refusal to participate in treatment and for discreditable involvement with military authorities, at which time, you waived your right to consult with counsel and to an administrative discharge board. Further, you were notified of the commanding officer's (CO) intent to recommend to the separation authority that you be discharged with an other than honorable (OTH) characterization of service for alcohol rehabilitation failure and minor disciplinary infractions adding "your retention would adversely affect the morale, discipline, and military effectiveness of this organization." On 30 September 1993, the separation authority directed you be discharged with an OTH by reason of misconduct due to minor disciplinary infractions and you were discharged.

You contend you experienced unfair treatment, an unjust decision, and racial discrimination. You add that your discharge was unfair as you were not fully aware of your rights and had no idea that there was anything you could do. 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 contentions noted above. The Board viewed your allegations with serious concern. However, this Board is not an investigating agency nor does it have the resources to investigate unsubstantiated allegations. Additionally, the Board noted you did not submit advocacy letters or post-service documents to be considered for clemency purposes. 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 four (4) NJPs, 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 the 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,

12/4/2021

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Executive Director

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