



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

█
Docket No: 7208-21
Ref: Signature Date



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 7 February 2022. 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, 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 and began a period of active duty on 14 November 1989. On 5 March 1991, you began a period of unauthorized absence (UA) which lasted two days. On 9 March 1991, you began a second period of UA which lasted two days. On 15 March 1991, you received nonjudicial punishment (NJP) for two periods of UA. On 17 May 1991, you began a third period of UA which lasted 12 days. On 12 June 1991, you received a second NJP for a period of UA. On 27 February 1992, you received a third NJP for four periods of UA. On 3 March 1992, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct, at which point, you elected your right to a case hearing by an

administrative discharge board (ADB). On 29 March 1992, you began a fourth period of UA which lasted 31 days. On 3 April 1992, your commanding officer recommended an other than honorable (OTH) discharge characterization of service by reason of misconduct due to pattern of misconduct. On 15 April 1992, you missed the sailing of the █. On 17 April 1992, the ADB voted (3) to (0) that you committed misconduct due to pattern of misconduct. On 27 April 1992, you missed the sailing of the █. On 10 July 1992, the discharge authority approved and ordered an OTH characterization of service by reason of misconduct due to pattern of misconduct. On 21 July 1992, you were discharged. On 17 September 1998, the Naval Discharge Review Board determined your discharge was proper as issued and that no change was warranted. This Board denied your previous request for a discharge characterization upgrade on 19 February 2020.

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 contention that your contentions that you were a young victim of harassment by your command, from a poor background in which you barely had a mother, and did not possess enough education to know the meaning of harassment or reprisal. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your repeated misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In weighing your misconduct against the mitigating factors, the Board noted that you repeatedly committed misconduct that was serious in nature and, more likely than not, had a prejudicial impact on the command's good order and discipline. Further, the Board considered that you continued to commit misconduct as you were being processed for administrative separation. In the Board's opinion, this showed a complete disregard for military authority that weighed heavily against upgrading your characterization of service. In making their finding, the Board also noted you did not submit any documentation or advocacy letters to be considered. 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,

2/18/2022

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Executive Director
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