



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

Docket No: 7215-21
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 3 January 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).

You enlisted in the Naval Reserves and began a period of active duty on 15 September 1982. On 6 October 1982, you were discharged with an honorable discharge characterization of service by reason of medical disqualification due to pre-existing condition (EPTS). On 6 January 1983, you began a second period of active duty service. On 15 July 1984, you received nonjudicial punishment (NJP) for theft. On the same date, you were counseled for misconduct due to theft. You were advised that failure to take corrective action could result in administrative separation. On 17 August 1984, you received a second NJP for unauthorized absence (UA) from appointed place of duty. On 19 August 1985, you began a second period of UA which lasted two-days. On 16 September 1985, you began a third period of UA which lasted 22 days. On 23 September 1985, you missed ship movement. On 26 October 1985, you began a fourth period of UA which lasted three-days. On 14 November 1985, you were convicted by summary court martial (SCM) for three periods of UA, and missing ship movement. You were sentenced to confinement at hard labor and forfeiture of pay. On 19 November 1986, you began a fifth period of UA which lasted

seven-days. On 25 November 1986, you received a third NJP for a period of UA. On 26 November 1986, you were notified of the initiation of administrative separation proceedings due to commission of a serious offense, and misconduct due to pattern of misconduct. On the same date, you elected to waive all your procedural rights. On 17 December 1986, your commanding officer recommended an other than honorable (OTH) discharge characterization of service by reason of commission of a serious offense, and misconduct due to pattern of misconduct. On 6 January 1987, the discharge authority approved and ordered an OTH discharge characterization of service by reason of misconduct due to pattern of misconduct. On 6 February 1987, you were 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 the characterization of your discharge and your contentions that: (a) since leaving active duty, you have become a productive member of society and raised your son since age-3; and (b) you had a career as a truck driver for 34 years and at one point you were able to own your own business. 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 and SCM, outweighed these mitigating factors. The Board noted you submitted 15 character letters of support to be considered. While the Board commends your post-service accomplishments, 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,

1/19/2022

█
Executive Director
█