



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: 7270-21
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 22 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).

You enlisted in the Navy and began a period of active duty on 19 October 1982. During the period from 16 May 1983 to 19 July 1984, you received four instances of non-judicial punishment (NJP). Your offenses were two specifications of false official statement, three specifications of failure to go to your appointed place of duty at the time prescribed, insubordinate conduct, and unauthorized absence. On 1 December 1985, you were convicted by civilian authorities of driving with a suspended license. On 5 February 1985 and 10 April 1985, you received your fifth and sixth NJP. Your offenses were failure to obey a lawful written order by serving a minor person alcoholic beverages and assault.

Subsequently, on 11 October 1985, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to pattern of misconduct and misconduct due to commission of a serious offense. You were advised of, and exercised your procedural right, to consult with military counsel. After consulting with counsel, you

waived your right to present your case to an administrative discharge board (ADB). Your commanding officer recommended your administrative discharge from the Navy with an other than honorable (OTH) characterization of service. The separation authority directed your administrative discharge from the Navy with an OTH characterization of service discharge by reason of misconduct due to commission of a serious offense. On 4 November 1985, 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 and submission of supporting documentation. The Board also considered your contentions that: (a) you were young, experienced prejudice, hate and you were targeted; (b) you experienced abuse that consisted of comments, criticisms, and blanket parties; (c) since your discharge, you are happily married, have become a grandfather, graduated college, and you are a deacon in a Pentecostal church; and (d) you have a life threatening disease and are suffering from kidney failure.

The Board commends you for your post-service accomplishments; however, based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your six NJPs and civilian conviction, outweighed these mitigating factors. Additionally, the Board did not find an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. 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,

1/13/2022

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Executive Director

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