



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: 7470-21
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 12 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, 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 on 30 September 1976. During the Period from 30 September 1977 to 27 March 1978, you received three instances of non-judicial punishment (NJP) for assault, breach of peace, and two specifications of absence from appointed place of duty. On 26 July 1978, civil authorities convicted you of operating a motor vehicle without liability insurance. On 2 November 1978, you received NJP for two specifications of failure to obey a lawful order. On 27 February 1979, a summary court-martial (SCM) convicted you of failure to obey a lawful order and being disrespectful in language toward a superior commissioned officer. On 13 March 1979, you received NJP for absence from your appointed place of duty. Subsequently, you were notified of pending administrative separation action by reason of frequent involvement with civil/military authorities. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). However, on 3 October 1979, you waived your rights provided you were recommended for a general under honorable conditions characterization of service.

After you waived your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge by reason of misconduct due to frequent involvement with civil/military authorities, with a general under honorable conditions characterization of service. The SA approved the recommendation, and on 20 November 1979, 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, correct/change your social security number (SSN), and correct/change your military primary specialty. The Board also considered your contentions that your father was murdered and your CO offered you an early out in order to help your family and you were told your general discharge would change to honorable after six months.

The Board noted that there is no evidence in your record, and you submitted none, to support your contention that your CO offered you an early out in order to help your family. The Board also noted that there is no provision in law or regulations that allow for re-characterization of a discharge automatically after six months, due solely to the passage of time. Regarding your request to correct/change you SSN. The Board noted that a review of your entire naval record shows your SSN as [REDACTED], and the copy you provided to the Board is insufficient to support correcting/changing your SSN in your record. Regarding your request to correct/change your military primary specialty, the Board noted that there is no evidence in your record, and you submitted none, to support correcting/changing your military primary specialty.

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 five NJPs, a civil conviction, and a SCM 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,

1/20/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]