



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: 7571-21
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 29 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 service on 27 August 1979. On 2 December 1982, you received non-judicial punishment (NJP) during this enlistment for wrongful use of marijuana. Following this NJP, a substance abuse report documents that you exhibit good potential for further useful service. You subsequently completed this enlistment with an honorable characterization of service on 5 July 1983, and reenlisted on 6 July 1983.

On 12 May 1986, you were convicted by a special court-martial (SPCM) for signing an official document with intent to deceive by applying for Navy housing with a person not your wife, 30 specifications of wrongfully and unlawfully making or uttering checks without having sufficient funds, making a false claim against the government by preparing dependent travel claim voucher for approval, and wrongfully cohabitating in government housing with a woman not your wife from 24 June 1985 to 27 January 1986. Your sentence included confinement, forfeiture of pay, reduction in rank and a Bad Conduct Discharge (BCD). The convening authority (CA) approved the sentence and suspended the BCD for a period of six months.

On 15 October 1986, your commanding officer (CO) notified you that you were being considered for an administrative discharge from the Navy by reason of misconduct due to commission of a serious offense. You elected your right to obtain copies of documents that would be forwarded to the Commander of Naval Military Personnel Command, supporting the basis of the recommended separation and waived all other procedural rights.

On 20 October 1986, your CO recommended that you be administratively discharged from the Navy with an other than honorable (OTH) characterization of service, adding, "Further retention on active duty is not in the best interest of the member or the Navy."

On 19 November 1986, the Chief of Naval Personnel (CNP) recommended to the Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN (M&RA)) that you be discharged from the Navy under OTH conditions by reason of misconduct due to commission of a serious offense, as evidenced by your SPCM conviction. As such, on 28 November 1986, ASN (M&RA) approved CNP's recommendation.

On 7 December 1986, the separation authority directed that you be discharged from the Navy under OTH conditions for a commission of a serious offense, and on 11 December 1986, you were discharged from the Navy under OTH conditions for misconduct due to commission of a serious offense.

Your case was previously heard by this Board on 18 September 2002 and found, after carefully weighing all potentially mitigating factors, such as prior periods of honorable service before the conviction. However, the Board concluded these factors were insufficient to warrant recharacterization of your discharge and concluded no change to the discharge was warranted.

In this petition, you provided the following contention for the Boards' consideration: You were accused of being married to two women, however, this was not the case, as your first wife was deceased, and the following assertions: 1) You served six (6) months in prison (jail); 2) Because of your discharge you have difficulties sleeping; 3) You have not been able to maintain a relationships with women; and 4) You need help.

After careful review and consideration of all of the evidence of record, the Board found insufficient evidence of any error or injustice warranting a change to your naval record. The Board also carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo). These included, but were not limited to, your desire to upgrade your discharge character of service, your contention, and assertions as previously discussed. The Board noted that you did not submit any supporting documentation or advocacy letters in support of your application to be considered for clemency consideration. 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 a SPCM conviction was so significant that it far outweighed all of your potentially mitigating factors. Accordingly, the Board determined that your OTH characterization of service was appropriately awarded, and that the totality of the circumstances do not warrant an upgrade or any other 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,

2/4/2022

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Executive Director

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