



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: 8019-21
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 the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 19 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 and commenced a period of active duty on 12 September 2000. On 27 May 2002, you received nonjudicial punishment for unauthorized absence and failure to obey a written order. On 24 May 2002, you were convicted by a court-martial for a violation of Article 112a of the Uniform Code of Military Justice, which relates to wrongful use, possession, etc. of an illegal substance. As part of your punishment, you received a bad conduct discharge. On 12 August 2004, you were so discharged.

The Board carefully considered all potentially mitigating factors in your petition to determine whether the interests of justice warrant relief in your case including in accordance with the Wilkie Memo. These included, but were not limited to your contentions that: (a) your discharge was unfair at the time, and it was procedurally defective; (b) at the time of your service, you were young and impressionable, were suffering from mental and emotional challenges, and your

command should have reached out to you to see if there was any way they could have provided you with assistance; and (c) you should be afforded clemency.

Based upon its review, the Board concluded the potentially mitigating factors that you raised were insufficient to warrant relief. With respect to your contention that your discharge was unfair at the time and it was procedurally defective, the Board noted you did not provide evidence to support this contention, and the Board did not ascertain unfairness or procedural irregularities in your discharge processing. To the contrary, according to your service record, you received nonjudicial punishment, and, later the same year, you were convicted by a special court-martial, which awarded you a bad conduct discharge. There is no indication that any of this discipline was defective. With respect to your request for clemency, the Board observed that you did not provide facts in support of your request for clemency. Thus, in light of your receipt of nonjudicial punishment and receipt of a bad conduct discharge, 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, _____

1/25/2022

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Executive Director

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