



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

█
Docket No: 8045-21
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 9 February 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 Marine Corps Reserve on 20 November 1985. On 25 April 1989, your commanding officer (CO) notified you by mail of your failure to attend 10-scheduled drill and your two-week ATD training. On 11 May 1989, your CO notified you by certified mail of his intention to recommend that you be separated from the Marine Corps Reserves due to failure to participate in scheduled drills. You failed to return the acknowledgement resulting in you waiving your rights associated with your administrative separation processing. On 30 May 1989, your CO forwarded your package to the separation authority (SA) recommending your discharge due to failure to participate with an other than honorable (OTH) characterization of service. The SA approved the recommendation, and on 23 June 1989, 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 and contentions that you worked for an employer who would not give you time off to attend drills and threatened to fire you if you did not show up at your scheduled time. In addition, you expressed a need for Department of Veteran Affairs (DVA) benefits.

The Board noted that there is no evidence in your record, and you submitted none, to support your contentions that your employer would not allow you to attend drill and threatened to fire you. The Board also noted whether or not you are eligible for DVA benefits is a matter under the cognizance of the DVA, and you should contact the nearest office of the DVA concerning your right to apply for benefits. If you have been denied benefits, you should appeal that denial under procedures established by the DVA.

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 failure to attend scheduled drills, outweighed your unsubstantiated assertions against your employer. In making this finding, the Board also concluded that, even if you were having issues with your employer, your failure to communicate any of those issues with your command severely diminished your arguments that an injustice exists in your case. 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,

2/15/2022

A large black rectangular redaction box covering the signature area.

Executive Director

Signed by: 