



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: 277-22
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 24 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 began a period of active service on 25 September 1999. Prior to your active duty service you were counseled regarding your preservice civil conviction for being a minor in possession of alcohol and two speeding tickets. Once on active duty, you were convicted at summary courts martial on 15 March 2000 and 4 July 2000 for two specifications of unauthorized absence (UA) and two specifications of missing ships movement. On 26 October 2000, you received non-judicial punishment (NJP) for using provoking speech and assault. You were counseled on 11 December 2000 for an alcohol related incident and recommended for level II substance abuse treatment. Subsequently, you commenced a period of UA prior to entering level II treatment on 12 February 2001. Following the commencement of your treatment, you began another period of UA that resulted in your disenrollment from level II treatment. A medical record narrative summary issue upon your disenrollment documents that you began using alcohol at age 16 with regular use at the age of 18. However, you denied feelings of depression, difficulty controlling anger, or managing stress at that time. You were ultimately diagnosed with alcohol and nicotine dependence and released from treatment. On 4 June 2001,

you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct, commission of a serious offense, and alcohol rehabilitation failure. On the same day, you waived your right to consult with counsel and a hearing before an administrative discharge board. You began another period of UA from 28 June 2001 until your surrender on 10 July 2001. On 19 July 2001, your commanding officer recommended your discharge from naval service with an Other Than Honorable (OTH) characterization of service. You began another period of UA on 26 July 2000 resulting in your discharge in absentia, on 27 August 2001, with an OTH characterization of service by reason of misconduct due to pattern of misconduct.

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 characterization of service and adjust your reenlistment code. As part of your application, you contend your service was honorable but you made dishonorable decisions. You further explain in a statement to the Board that you experienced difficulty adjusting to being away from home and that you went UA after your father was diagnosed with cancer. These circumstances caused you to experience anxiety and depression symptoms during this period in your life. In addition, you state that you continued to struggle with alcoholism after your discharge even though you have remained sober for the last 12 years.

While the Board commends your recent years of sobriety, the Board determined the preponderance of the evidence does not support relief in your case. Specifically, the Board was not persuaded by your assertions of mental health issues based on the 6 March 2001 medical record narrative summary that documented the lack of any mental health symptoms at that time. Further, the Board determined the severity of your repeated misconduct which resulted in two SCMs and one NJP was too serious to be offset by your mitigation arguments. In making this finding, the Board also considered that you continued to commit misconduct even as you were being processed for administrative separation. Based on these factors, the Board determined your mitigation arguments were not sufficient to support a change to your characterization of service or reenlistment code. Accordingly, given the totality of the evidence, 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,

2/4/2022

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Executive Director
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