



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

■
Docket No: 0387-22
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 23 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 Navy and began a period of active duty on 27 June 1973. You subsequently were released from active duty with an Honorable characterization of service and transferred to the naval reserve on 26 April 1977. You reenlisted into the Navy and began your second enlistment on active duty on 3 May 1979. On 2 December 1983, you were convicted by a special court-martial (SPCM) of an unauthorized absence from 13 November 1979 to 23 October 1983, totaling 1440 days. You were sentenced to confinement, forfeiture of pay, reduction in rank, and a bad conduct discharge (BCD). The BCD was subsequently approved at all levels of review, and on 24 April 1985, 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 character of service. The Board considered your statement that when you tried to purchase a firearm, the FBI told you

that your file states that you have a Dishonorable Discharge. You further state that you have purchased firearms prior to this time and have always passed a background check. You further state that you would like to get your FBI file corrected before you get into some sort of trouble caused by it not being correct.

For purposes of clemency consideration, the Board noted you did not provide a statement or supporting documentation describing post-service accomplishments, or advocacy letters. 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 your SPCM conviction, outweighed these mitigating factors. The Board concluded that your extended period of unauthorized absence was too serious to be offset by your desire to purchase firearms or receive other benefits. Additionally, regarding your request for correction of your "FBI file," be advised that this request does not fall under the purview of this Board. To help facilitate your request, you should contact the agency in question. 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,

3/7/2022

█
Executive Director

Signed by: █