



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: 937-22
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 23 March 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy Reserve on 23 April 2004. On 20 August 2005, you were notified by your command that you were in a dental class III status. On 4 January 2006, your commanding officer (CO) notified you of medical readiness non-compliance, which could result in administrative separation and you failed to get an examination. In the months of December 2005 and January 2006, you were ordered to report to the NRC █ Medical Department to receive your annual dental examination and you failed to report. On 8 February 2006, your CO notified you by certified mail of his recommendation that you be separated from the Navy Reserve due to unsatisfactory participation. You acknowledged receiving the letter and waived your rights.

On 15 March 2006, your CO forwarded his separation recommendation to the separation authority (SA) recommending your discharge due to unsatisfactory participation, with a general under honorable conditions characterization of service. The SA approved the recommendation and, on 5 April 2006, 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 could not afford to pay for dental insurance, you were separated from your wife, your wife signed for the paperwork you received from your CO and did not tell you, and you served in the Army Reserves receiving an honorable discharge. The Board noted that there is no evidence in your record, and you submitted none, to support your contentions. In addition, the Board considered the fact you were administratively separated for failing to report for an annual dental examination resulting in a medical readiness issue.

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 receive your annual dental examination and failure to provide substantial documentation to support your contentions, outweighed these mitigating factors. As a result, when weighing your misconduct against your reserve duty, the Board concluded that the preponderance of the evidence supports a finding that negative aspects of your service outweighed the positive aspects of your service and continues to warrant a General (under honorable conditions) characterization of service. 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,

3/30/2022

