



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: 1095-22
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 22 April 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 18 May 1988. Prior to entering active service, on 12 March 1988, you were counseled regarding the Navy's policy on drug and alcohol abuse. On 19 September 1988, you received non-judicial punishment (NJP) for failure to obey a written order. On 28 October 1988, you were counseled regarding your pattern of misconduct. On 31 October 1988, you received NJP for failure to obey a regulation. On 13 December 1988, you received NJP for attempted larceny, and unauthorized absence (UA). On 7 June 1990, you received your fourth NJP for three specifications of UA and three specifications of disobeying a lawful order. On 13 June 1990, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to the pattern of misconduct. On 18 June 1990, you elected your right to consult with counsel. On 27 June 1990, the separation authority approved and directed your discharge with an other than honorable (OTH) character of service by reason of misconduct due to pattern of misconduct. On the

11 July 1990, your commanding officer recommended your discharge from naval service with an other than honorable (OTH) character of service by reason of misconduct due to pattern of misconduct. Your commanding officer noted you were afforded every opportunity to improve, however, you became an administrative burden to your company. On 23 July 1990, you were discharged with an OTH character of service by reason of misconduct due to pattern of misconduct. You subsequently applied for a discharge upgrade to the Naval Discharge Review Board and were denied relief on 30 May 1995.

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 character of service. You contend the record states you received a dishonorable discharge and you made mistakes during your service. You attribute your misconduct to your divorce, alcohol abuse, and you request an upgrade to a General character of service. The Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your four NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded it showed a complete disregard for military authority and regulations. In addition, the Board noted you did not submit post-discharge advocacy letters or similar evidence for consideration. As a result, the Board determined your conduct constituted a significant departure from that expected of a sailor and continues to warrant an OTH characterization. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Finally, the Board wanted to reassure you, contrary to your assertions, that your record does not document a dishonorable discharge. As previously explained, your DD Form 214 appropriately lists "Other than Honorable" as your character of service.

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,

4/28/2022

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Executive Director

Signed by: █