



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: 1836-22
Ref: Signature Date

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Dear █:

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 6 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 entered active duty with the Navy on 12 December 1979. During the period from 28 July 1982 to 17 May 1984, you received four non-judicial punishments (NJP) for unlawful possession of marijuana, four specification of unauthorized absence (UA) totaling four days, and missing ship's movement. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct/frequent involvement with civil/military authorities. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). The ADB found that you committed misconduct due to a pattern of misconduct/frequent involvement with civil/military authorities and recommended you receive an other than honorable (OTH) characterization of service. The separation authority (SA) concurred with the ADB and directed an OTH discharge by reason of misconduct due to a pattern of misconduct/frequent involvement with civil/military authorities. On 24 July 1984, 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, change your narrative reason for separation, and contention that your narrative reason for separation does not accurately reflect the quality of your service to the Navy. You further argue that you carried yourself meritoriously, passed the E-5 test, and that your recruiter lied to you about the qualifications for C-School. The Board also considered your assertions that you received two Master Degrees and a Ph.D. since your discharge and that you are a writer, designer, educator, churchgoer, community gardener, and a perennial student.

The Board noted the record contains documented evidence, which is contrary to your contention that your narrative reason for separation does not accurately reflect the quality of your service to the Navy. The record clearly shows that on 24 May 1984, you requested an ADB which found that you committed misconduct due to a pattern of misconduct/frequent involvement with civil/military authorities and recommended you receive an other than honorable (OTH) characterization of service. The Board noted that a Sailor's service is characterized at the time of discharge based on performance during the current enlistment. The Board also noted that there is no evidence in your record, and you submitted none, to support your contention that your recruiter lied to you about the qualifications for C-School. Lastly, the Board noted while commendable, your post service conduct does not excuse your misconduct while enlisted in the Navy or the basis for your discharge.

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 four NJPs, outweighed these mitigating factors. In making this finding, the Board noted the seriousness of your misconduct and concluded that your record of misconduct shows a complete disregard for military authority and regulations. As a result, when weighing the seriousness and frequency of your misconduct against your active duty service, the Board concluded that the preponderance of the evidence supports a finding that your conduct was a significant departure from that expected from a Sailor and continues to warrant an OTH 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,

4/14/2022



Executive Director

Signed by:

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