



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

██████████
Docket No: 2182-22
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 6 May 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 United States Marine Corps Reserve (USMCR) and completed your required active period of service from 11 January 1993 to 17 July 1993. On 20 November 1995, you were counseled regarding the receipt of a letter of intent to reduce you in rank due to your failure to your participate. Subsequently, on 20 January 1996, you were reduced in rank to Private due to your unsatisfactory participation. On 9 July 1996, you were discharged with an Other Than Honorable characterization of service due to your unsatisfactory participation.

Although your record was incomplete, in that your complete separation proceedings were not in your military record, the Board relies on a presumption of regularity to support the official

actions of public officers and, in the absence of substantial evidence to the contrary will presume that they have properly discharged their official duties.

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 your desire to adjust your record. You contend, in part, you were directed not participate in inactive duty training (IDT) and, as a result, you voiced your concerns. You further contend that you began to miss drills because of how you were treated once you voiced your concerns. The Board noted that you submitted evidence of post-discharge accomplishments in support of your petition.

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 participate in required drills, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and determined that your conduct showed a disregard for your contracted obligation to the Marine Corps. Further, while the Board considered your allegations, they noted that these allegations were unsupported in the record or by submission of evidence. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Marine and continues to warrant an OTH characterization. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. Accordingly, given the totality of the circumstances the Board found no indication to support adjustment to your record.

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,

5/25/2022

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Executive Director

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