



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: 2368-22
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 4 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 4 January 1995 to 23 June 1995. On 7 February 1996, you were notified of your unsatisfactory participation for January 1996 inactive duty training (IDT). An attempt was made to notify you of the intent to reduce you in rank due to your unsatisfactory participation. From the period beginning on 20 April 1996 to 4 May 1997 you were eligible but not recommended for promotion due to your unsatisfactory participation. During the aforementioned period several attempts were made to notify you of your unsatisfactory participation. On 10 April 1997, you signed acknowledgment of receipt via certified mail of

your unsatisfactory participation. On 12 May 1997, your commanding officer recommended your separation with an Other Than Honorable (OTH) character of service due to your failure to participate in 62 IDT's. On 15 June 1997, the separation authority approved and directed your discharge. On 17 June 1997, you were discharged with an OTH characterization of service by reason of failure to participate in the ready, and issued a RE-4 reentry.

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 change your reentry code to allow you to reenlist in the National Guard. You contend, you were young and foolish and you have served as a police officer for over 20 years. The Board noted you failed to provide evidence to reflect your contention of post service employment as a police office, or any evidence to mitigate your misconduct as a matter of clemency. Additionally, the Board noted your current age precludes you from enlistment into the National Guard. As a result, after applying liberal consideration, the Board did not find evidence of an error or injustice that warrants changing your reentry code or granting clemency in your case. 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,

5/20/2022

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Executive Director
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