



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: 2749-22
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 9 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).

You enlisted in the U.S. Marine Corps Reserve and began a period of active duty on 27 December 1979. You completed a period of active duty on 3 June 1980 and were released from your initial tour of active duty training with an Honorable characterization of service. On 9 December 1983, your commanding officer (CO) recommended to the separation authority that you be discharged with an Other Than Honorable (OTH) characterization of service by reason of unsatisfactory participation in reserve training due to excessive absences from scheduled drills. On 1 March 1984, a staff judge advocate review of your case found the proceedings were sufficient in law and fact. On 5 March 1984, the separation authority directed you be discharged with an OTH by reason of unsatisfactory performance in the Ready Reserve; for which you were subsequently discharged.

Unfortunately, all of the documents related to your administrative separation are not in your official military personnel file (OMPF). In this regard, 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 (as is the case at present), will presume that they have properly discharged their official duties.

The Board carefully reviewed your application and 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 your contentions that, (1) you “had not missed drill dates,” (2) you “received pay for being there,” (3) you were “told by your Gunny that you were going to make ‘them’ up anyway,” (4) you “question how two missed drills turn into nine over filing incorrect discharge papers,” (5) the “length of time since your discharge and your youth should be considered.” Finally, the Board noted, aside from your DD Form 214, you did not submit advocacy letters or post-service accomplishments to be considered for clemency purposes.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your repeated misconduct, as evidenced by your missed drills, outweighed these mitigating factors. In making this finding, the Board was not persuaded by your arguments of error and relied on the SJA review of your administrative separation that stated you missed 32 drills without authority and these unexcused absences were documented through certified copies of your IDART cards. Based on this evidence, the Board concluded you failed to overcome the presumption of regularity regarding your misconduct and administrative separation. 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 determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon the 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,

6/6/2022

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Executive Director
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