



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: 2860-22

Ref: Signature Date

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Dear █

This is in reference to your application for correction of your father's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your father's 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 18 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 entered active duty with the Navy on 24 August 1972. On 31 May 1973, a special court-martial (SPCM) convicted you of unauthorized absence (UA) totaling 121 days. On 30 December 1975, you received non-judicial punishment (NJP) for being in a UA status for 885 days. On 6 January 1976, a medical board diagnosed you with Paranoid Schizophrenia that existed prior to enlistment (EPTE) and Depressive Reaction. As a result, you were notified of pending administrative separation action by reason of physical disability that existed prior to enlistment. After you waived your rights, your commanding officer forwarded your package to the separation authority recommending a General (Under Honorable Conditions) characterization of service due to physical disability. The SA approved the recommendation, and on 9 January 1976, 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 and contention that your SPCM indicated that you qualified for an Honorable discharge because you were under medical treatment at the time of your discharge. The Board noted that there is no evidence in your record, and you submitted none, to support your contention.

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 lengthy periods of UA, NJP, and SPCM conviction, outweighed the mitigating evidence in your case. In making this finding, the Board considered the seriousness of your misconduct. Further, the Board noted that you were not processed for misconduct or issued an Other than Honorable characterization, despite your considerable periods of UA, based on the medical evidence in your case. As a result, the Board determined you already received a significant amount of mitigation by the Navy and no additional mitigation of your misconduct was appropriate. Therefore, the Board concluded that significant negative aspects of your active duty service outweighed the positive aspects and continue to warrant a General (Under Honorable Conditions) 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 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,

5/31/2022



Executive Director

Signed by:

