



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

██████████
Docket No: 3007-22
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 you did not file your application in a timely manner, the statute of limitations was waived in the interests of justice. 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 this 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 and entered a period of active duty in the Navy on 3 November 1986. On 1 February 1988, you were convicted by summary court martial (SCM) for making false official statements in violation of Article 107, Uniform Code of Military Justice (UCMJ). You were then convicted by special court martial (SPCM), on 6 April 1988, for larceny and unlawful entry in violation of Articles 121 and 134, UCMJ. At this proceeding you were sentenced to confinement for 30 days, forfeiture of ██████████ of pay, reduction in rank to the paygrade E-1, and discharge from the service with a Bad Conduct Discharge (BCD). On 17 June 1988, you received nonjudicial punishment (NJP) for a nine hour unauthorized absence in violation of Article 86, UCMJ. After your NJP proceeding, you entered an unauthorized absence status nine times. Your final period of UA was from 15 February 1989 to 25 April 1989, terminated by apprehension. On 23 January 1990, you were discharged with a BCD.

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 contentions that at the time of your misconduct you were very young and not making the best choices and that you have lived a successful post-discharge lifestyle and have not gotten into any trouble. You further assert that you are married, have raised a family, and would like to have a second chance at life because the BCD is a scar on your record. For purposes of clemency consideration, the Board noted you provided supporting documentation describing post-service accomplishments and advocacy letters.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board noted the severity of larceny and unlawful entry and determined that your misconduct, as evidenced by your NJP, SCM, and SPCM, outweighed these mitigating factors. While the Board acknowledged your post-service conduct and commends your accomplishments, they ultimately concluded the seriousness of your misconduct could not be offset by the mitigation evidence provided. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Sailor and continues to warrant a BCD. 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,

6/9/2022

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Executive Director
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