





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


Docket No: 3020-22
Ref: Signature Date


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, 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 Navy and began a period of active duty on 13 November 1984 and were discharged on 29 March 1987 with an Honorable discharge characterization of service. On 30 March 1987, you reenlisted in the Navy and began a second period of active duty. On 14 March 1989, you were counseled for tardiness and failure to respond to counseling efforts concerning tardiness. You were advised that failure to take corrective action could result in administrative separation. On 7 May 1989, you began a period of unauthorized absence (UA) which lasted five days and 23 minutes. On 11 May 1989, you missed ship movement. On 18 May 1989, you received nonjudicial punishment (NJP) for the period of UA and missing ship movement. On the same date, you were counseled for misconduct and advised that failure to take corrective action could result in administrative separation. On 6 February 1990, you received a second NJP for a period of UA. On 16 February 1990, a medical officer diagnosed you with personality disorder and recommended that you were administratively separated from service. On 16 April 1990, you began a third period of UA which lasted three days, 2 hours, and 20 minutes. On 19 April 1990,

you were notified of the initiation of administrative separation proceedings by reason of personality disorder, at which point you elected to waive all your procedural rights. On 30 April 1990, the discharge authority disapproved your commanding officer (CO) discharge recommendation and ordered you reprocessed service by reason of misconduct due to commission of a serious offense. As a result, on 8 May 1990, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to commission of a serious offense, at which point you elected to waive all your procedural rights. On 14 May 1990, your CO recommended an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to commission of a serious offense. On 29 June 1990, the discharge authority approved and ordered an OTH discharge characterization of service by reason of misconduct due to commission of a serious offense. On 17 July 1990, you were 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 for an upgrade and contentions that you received an OTH discharge as a result of an offense that you were previously punished for, that you received a good conduct ribbon on the same year the misconduct incident took place, that you graduated from military courses with honors and as a top student, and that you served your country honorably and did not deserve an OTH discharge. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

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 NJPs, outweighed these mitigating factors. In making this finding, the Board considered your contentions but determined they were insufficient to outweigh the seriousness of your repeated misconduct. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Sailor 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,

6/1/2022

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Executive Director

Signed by: █