



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: 3372-22
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 13 June 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. Navy (USN) and commenced a period of active duty on 13 August 1986. On 11 August 1989, you reported for duty aboard █. On 18 January 1990, administrative remarks document you acknowledged reviewing your enlisted performance evaluation due to derogatory contents, at which time, you chose not to submit a statement concerning said adverse evaluation. On 23 January 1991, you were found guilty at a special court-martial (SPCM) of conspiracy to forge a blank check in an attempt to negotiate the check for currency and wrongful appropriation of a Navy Federal Credit Union blank check. You were sentenced to be confined for two months, to forfeit \$400.00 pay per month for two months, to be reduced in rank to E-1, and to be separated with a Bad Conduct Discharged (BCD). On 25 November 1991, you were discharged with a BCD after completion of appellate review.

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) at the time of this error in judgement you were 19 years old and did not understand the standards of the USN, (2) you are now 54 years old, married, and a Senior Pastor, (3) you have not had any character misjudgments since your discharge, and (4) you feel you only had one strike as you had no other disciplinary incidents prior to the one incident aboard █. 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 SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and weighed it against your contentions. Ultimately, the Board determined your arguments of immaturity were insufficient to outweigh the seriousness of your misconduct. Additionally, in regard to your contention of this being an isolated incident, there is no precedent within this Board's review for minimizing misconduct based on a finding that it was single incident. The Board concluded the seriousness of an act of misconduct must be judged based on the harm caused, or potential for harm, and should not be excused solely on whether it was an isolated incident. In reviewing your record, the Board found no evidence that you were not mentally responsible for committing the misconduct for which you were discharged or did not understand the consequences of your actions. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Sailor and continues to warrant a BCD. While the Board commended your post-discharge good character, 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 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,

7/4/2022

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Executive Director

Signed by: █