



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: 3603-22

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 23 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 10 July 1981. On 31 March 1982, you began a period of unauthorized absence (UA) which lasted seven days. On 6 May 1982, you received nonjudicial punishment (NJP) for possession of a controlled substance-marijuana, possession of drug paraphernalia, use of a controlled substance-marijuana, and the previous period of UA. On 18 June 1982, you received a second NJP for leaving watch without being properly relieved, and one period of UA from appointed place of duty. On 11 July 1982, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to frequent involvement. On 17 July 1982, you received a third NJP for two periods of UA from your appointed place of duty. On 27 July 1982, you were convicted by summary court martial (SCM) for making a false official statement. You were sentenced to confinement at hard labor and forfeiture of pay. On 30 July 1982, you elected to waive all your procedural rights. On 6 August 1982, your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to frequent involvement. On

21 August 1982, the discharge authority approved an ordered an OTH discharge characterization of service by reason of misconduct due to frequent involvement. On 30 August 1982, 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 your discharge was the result of being assaulted by your senior commissioned officer and you were trying to defend yourself. Additionally, your contention that your rights were violated during your tour of service, causing you to be unfairly 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 and SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded it showed a complete disregard for military authority and regulations. Further, the Board considered that your misconduct included drug offenses. Finally, the Board noted that you provided no evidence to support your contentions. 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,

6/3/2022

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Executive Director

Signed by: █