



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: 4035-22
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 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 17 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).

On 26 May 1995, you signed and acknowledged enlistment into the Navy which reflects the following name: █ You began a period of active service in the Navy on 5 July 1995. On 16 May 1996, you received non-judicial punishment (NJP) for unauthorized absence (UA) and missing movement. On 24 May 1996, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to the commission of a serious offense, at which point, you waived your right to consult with counseled and a hearing before an administrative discharge board (ADB). On 10 June 1996, your commanding officer recommended your separation from naval service. The discharge authority approved and directed your discharge. On 7 November 1994, you were discharged with an Other Than Honorable character (OTH) of service by reason of misconduct due to the commission of a serious offense.

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 characterization of service and contentions that your UA was due to the emotional stress you experienced after receiving notice of your father's passing and that, once you returned to the ship, you were given the choice to stay or go. 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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct that included an offense of missing movement. Further, the Board noted you did not submit any evidence to substantiate 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.

With regard to your request for the name listed on your discharge documents to reflect the name [REDACTED], the Board determined insufficient evidence exists to find an error exists. The Board noted that the name listed on your discharge documents reflects the name used upon your entrance onto active duty and at the time of your discharge from naval service. In order to support a finding that an error exists, the Board suggested providing a birth certificate with any future application requesting similar 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,

7/7/2022

[REDACTED]

Executive Director

[REDACTED]