



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: 4144-22

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 1 August 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy and began a period of active duty on 4 August 1982. On 11 September 1982, you were assigned to Training Facility █. On 2 February 1983, you received nonjudicial punishment (NJP) for altering your urinalysis specimen, unauthorized absence, and two specifications of failure to obey an order. On 22 July 1983, you began a period of unauthorized absence (UA) which lasted 11 days, and resulted on you missing airlift movement. On 3 August 1983, you received a second NJP for the UA and missing movement. On 4 August 1983, you were counseled for previous UCMJ violations leading to NJP. You were advised that failure to take corrective action could result in administrative separation. On

3 November 1983, you received a third NJP for being UA from your appointed place of duty. On 15 February 1984, you received a fourth NJP for misbehavior as a sentinel. On 30 April 1984, you began a second period of UA which lasted eight days, 19 hours, 15 minutes, and resulted in your fifth NJP on 11 May 1984. Subsequently, you were counseled for UCMJ violations leading to NJP. You were advised that failure to take corrective action could result in administrative separation. On 13 June 1984, you received a sixth NJP for UA. On 12 August 1984, the discharge authority approved and ordered an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to pattern of misconduct. On 17 August 1984, you were discharged.

Unfortunately, some documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties.

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 a discharge upgrade and contentions that you were removed from "A" school and sent to the fleet as an unrated member for reporting a fraternization incident between a female trainee and a Marine drill instructor. 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 the seriousness of your misconduct and the likely negative impact it had on the good order and discipline of your unit. Additionally, the Board considered that the nature and frequency of your misconduct showed a complete disregard for military authority and regulations. Finally, the Board noted that you provided no 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. 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, _____

8/22/2022

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Executive Director

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