



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: 5037-22
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 31 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, 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 Navy and began a period of active service on 6 August 1984. You received non-judicial punishment (NJP) on 14 March 1985 for assault. You were counseled on the same day regarding your NJP, and notified further misconduct would lead to the initiation of administrative separation proceedings. From the period beginning on 22 November 1985 to 2 March 1988, you received non-judicial punishment (NJP) on four occasions for the following charges: three specifications of article 91, two specifications of article 92, article 89, four specifications of article 90, and three specifications of article 86. Administrative separation proceedings were initiated as a result of your misconduct due to your pattern of misconduct. You waived your right to consult with counsel, and elected a hearing of your case before an administrative discharge board (ADB). On 6 April 1988, an ADB convened and recommended your separation from naval service with an Other Than Honorable (OTH) character of service due to your pattern of misconduct. Your commanding officer concurred with the recommendation of the ADB. On 6 May 1988, you received your sixth NJP for three specifications of article 91, failure to obey a lawful order. Subsequently, on 7 May 1988, the

separation authority approved and directed your separation with an OTH characterization of service due to misconduct by reason of pattern of misconduct. On 17 May 1988, you were so discharged.

You previously applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request on 22 December 1993 after concluding your discharge was proper as issued.

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 OTH character of service was upgraded and you were issued a Correction to DD Form 214 Certificate of Release or Discharge from Active duty (DD Form 215), which reflected a General (Under Honorable Conditions) character of service. You assert that you require the discharge to establish eligibility for Department of Veterans Affairs services. 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 repeated misconduct which resulted in seven NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your repeated misconduct and the likely negative impact it had on the good order and discipline of your unit. In addition, the Board concluded that your conduct showed a complete disregard for military authority and regulations. Additionally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Finally, the Board found no evidence your characterization of service was previously upgraded as you claimed. 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 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,

9/26/2022

[REDACTED]

Executive Director

[REDACTED]