



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: 5918-22
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 28 October 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues 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 U.S. Navy and began a period of active duty on 30 June 1981. On 26 January 1982, you received non-judicial punishment (NJP) for failure to be at an appointed place of duty, disrespect to a superior petty officer, and disobedience of a lawful order. On 16 February 1983, you received a second NJP for unauthorized absence (UA) for 30 days and missing ship's movement. On 30 January 1984, you received a third NJP for two periods of UA, one for 2 days and another for 1 day. You were then counseled, on 6 February 1984, regarding your failure to be at your appointed place of duty and carry out orders by your supervisors. After this counseling

you received NJP for the fourth time for 29 specifications of failure to be at an appointed place of duty, and failure to obey lawful general regulation. You received NJP for the fifth time, on 25 April 1984, for six specifications of UA.

Subsequently, you were notified for administrative separation for misconduct, pattern of misconduct. You waived your rights to consult with military counsel and to request an administrative board hearing. While awaiting your separation, you received your sixth NJP for 3 occasions of failure to be at an appointed place of duty. Your Commanding Officer (CO) recommended to the Separation Authority (SA) that you be discharged with an Other Than Honorable (OTH) characterization of service. The SA approved the CO's recommendation, on 3 June 1984, and you were discharged, on 20 June 1984, with an OTH.

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 served three years and deployed to Lebanon, you are a proud veteran, and deserve to show your children and grandchildren an Honorable 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 six NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and determined it showed a complete disregard for military authority and regulations. Additionally, the Board noted that you were given multiple opportunities to correct your behavior but continued to commit misconduct. Finally, the Board noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. 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. While the Board appreciates your desire to show your family that your military service was honorable, even in light of the Wilkie Memo and reviewing the record holistically, 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,

11/5/2022

[REDACTED]

Executive Director

[REDACTED]