



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: 5992-22/
6597-14
Ref: Signature Date

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Dear █

This is in reference to your application for correction of your father's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your father's 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 previously applied to this Board for a discharge upgrade but were denied on 11 June 2015. The Board determined that your application was not timely filed and it would not be in the interest of justice to excuse your failure to submit your application in a timely manner. Specifically, you provided no reason why you filed your application 19 years after the statute of limitation had passed.

You entered active duty with the Navy on 14 November 1988. During the period from 31 July 1989 to 2 July 1990, you received two non-judicial punishments (NJP) for disrespect toward a petty officer and assault consummated by a battery. During the period from 2 August 1991 to 5 August 1991, you were in a unauthorized absence (UA) status on two separate occasions totaling 3 days. On 16 October 1991, you received NJP for failure to obey a lawful written order. On 18 October 1991, a special court-martial (SPCM) convicted you of UA, missing ship's movement, and assault. You were sentenced to confinement for six months, forfeiture of pay, reduction to E-1, and a Bad Conduct Discharge (BCD). After the BCD was approved at all levels of review and, on 14 December 1992, 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 to upgrade your discharge including your contentions that you were defending yourself after being attacked and you went UA in order to seek counseling. 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 three NJPs and SPCM conviction, outweighed the mitigating evidence in your case. In making this finding, the Board considered the seriousness of your misconduct and determined that it showed a complete disregard for military authority and regulations. Further, the Board noted you did not provide any substantiating 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 a BCD. 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,

9/11/2022

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Executive Director

Signed by: █