



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED] Docket No: 7711-22

2204-18

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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 30 November 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 previously applied to this Board for an upgrade to your characterization of service and were denied on 13 May 2019.

You enlisted in the Navy and began a period of active duty on 1 August 1983. On 15 December 1983, you received non-judicial punishment (NJP) for assault and violation of a lawful general regulation. On 17 January 1986, you received your second NJP for disobeying a lawful order, resisting apprehension, and three specifications of assault. On 25 June 1986, you were notified

that you were being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense, misconduct due to pattern of misconduct, and convenience of the government by reason of physical or mental condition-obesity. The notification advised that if separation was approved, the least favorable description of service authorized in your case would be Under Other Than Honorable (OTH) conditions. You waived your procedural rights to consult with military counsel, and to present your case to an administrative discharge board (ADB). On 27 June 1986, you received your third NJP for absence from your appointed place of duty. Your commanding officer (CO) forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Navy with a General (Under Honorable Conditions) characterization of service. The SA approved the recommendation for administrative discharge; however, directed that you be administratively discharged from the Navy with an OTH characterization of service. On 21 August 1986, you were discharged from the Navy an OTH characterization of service by reason of misconduct due to 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 change your discharge character of service, narrative reason for separation, and contentions that from January 1986 to June 1986, you lost very little weight and were harassed by crewmembers; "especially the admin office personnel" since the personnel office had an "axe to grind." You assert that the admin personnel informed you to go home and your papers would be mailed to you. However, it took seven years for you to receive your papers from the Personnel Records Center. You further assert that you have been a good citizen since your discharge and an asset to your community. For purposes of clemency and equity consideration, the Board noted you did not provided a letter from your American Legion Service Officer but no supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your three NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct showed a complete disregard for military authority and regulations. The Board also considered the likely negative impact your conduct had on the good order and discipline of your command. The Board found that your misconduct was intentional and made you unsuitable for continued naval service. As a result, the Board determined your conduct constituted a significant departure from that expected of a Sailor and continues to warrant an OTH characterization. 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, changing your narrative reason for separation, or granting relief as a matter of clemency or equity. Accordingly, given the totality of the circumstances, the Board determined 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

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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,

12/14/2022

