



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. 8156-22
Ref: Signature Date



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 13 February 2023. 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).

You enlisted in the Navy and began a period of active duty on 25 June 1985. On 4 August 1987, you were convicted by civil authorities with assault. You were sentenced to a \$300.00 fine and confinement for two days. On 18 December 1987, you began a period of unauthorized absence (UA) which lasted 30 days. On 28 April 1988, you began a second period of UA which lasted 44 days and resulted on you missing ship movement. On 18 June 1988, you were convicted by summary court martial (SCM) for a period of UA, and missing ship movement. You were sentenced to reduction to the inferior grade of E-2, confinement, and forfeiture of pay. As a result, on 1 July 1988, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to commission of a serious offense, at which point, you decided to waive your procedural rights. On 11 July 1988, your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to commission of a serious offense. On 15 July 1988, the separation authority approved the recommendation and directed your discharge. On 2 August 1988, you were so 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 for a discharge upgrade and contentions that: (a) your mother was taking care of your child before she was involved in an accident at her job; (b) your commander denied your request to go on leave and take care of your mom and son; (c) you were young and immature; (d) you have been a law abiding citizen and have never been to prison. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your SCM and civil conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that it showed a complete disregard for military authority and regulations. Further, the Board noted 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 service member 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 granting you the relief you requested or granting relief as a matter of clemency or equity. 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,

2/28/2023

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Executive Director

Signed by: █