



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

█
Docket No. 8476-22
Ref: Signature Date



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 20 January 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, 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 19 April 1989. On 19 October 1989, you received non-judicial punishment for wrongful use of discrediting words which were prejudicial to good order and discipline. You received your second NJP, on 15 October 1990, for misbehavior of a sentinel. You were counseled on the same day and you were notified further deficiencies in your conduct may result in the initiation of administrative discharge proceedings. You were counseled on a second occasion for your misbehavior as a sentinel, and you were further notified deficiencies in conduct may result in the initiation of administrative discharge proceedings.

On 24 January 1992, you received NJP for making a false official statement. On 24 March 1992, you received another NJP for desertion, and two specifications of missing movement. As a result of the foregoing misconduct, on 1 April 1992, administrative separation proceedings were initiated due personality disorder, misconduct by reason of pattern of misconduct, and the

commission of a serious offense. On the same day, you waived your right to consult with counsel, and waived your right to a hearing of your case before an administrative discharge board (ADB). Subsequently, the separation authority approved and directed your separation with an Other Than Honorable (OTH) character of service by reason of misconduct due to pattern of misconduct. On 17 April 1992, 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 to change your reentry code to RE-1 or RE-2 and your contentions that you do not deny your poor service, you would like to enlist in the [REDACTED] Army National Guard, and you request a change in your reentry code so that you can be a productive member of society. 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 NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded it showed a complete disregard for military authority and regulations. While the Board considered your contentions and noted that you expressed remorse for the events leading to your separation, the Board determined your reentry code remains appropriate based upon your record of misconduct. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Sailor and continues to warrant a RE-4 reentry code. 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 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,

2/12/2023

[REDACTED SIGNATURE]

Executive Director

Signed by: [REDACTED]