



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. 8680-22
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.

A three-member panel of the Board, sitting in executive session, considered your application on 9 February 2024. The names and votes of the members of the panel 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 this 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 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.

A review of your record shows that you entered active duty in the Navy on 23 October 2019. The evaluation report covering the period 21 February 2020 to 15 July 2020 noted you received non-judicial punishment (NJP) on 9 June 2020. You were subsequently discharged due to a pattern of misconduct, on 20 October 2020, and received a General (Under Honorable Conditions) characterization of service, having served a total of eleven months and 28 days on active duty. In 2022, the Department of Veterans Affairs (VA) granted you service connection for epilepsy with a rating of 40%.

For this petition, you request an Honorable characterization of service and the narrative reason for separation to be changed to medical discharge. You argue you should not have received a

pattern of misconduct narrative reason for separation. To support your petition, you submitted your civilian physician's letter confirming a diagnosis of epilepsy and VA documentation.

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 change to your narrative reason for separation. For purposes of clemency and equity consideration, the Board considered the evidence you submitted in support of your application.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board noted you did not provide evidence demonstrating your pattern of misconduct discharge was unjust or in error. Secondly, regarding your request for a disability discharge, the Board found no evidence that you had any condition while in-service that would have prevented future service. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Ultimately, the Board determined the evidence you provided was insufficient to overcome the presumption in your case. 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,

3/19/2024

