



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. 3285-23
2258-11
Ref: Signature Date

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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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. Your currently request has been carefully examined by a three-member panel of the Board, sitting in executive session on 30 October 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).

Your previous discharge upgrade request was denied by this Board on 22 November 2011.

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 and your contentions that: (1) you became an alcoholic while serving in the Navy and are a service connected alcoholic who sought treatment after your last episode, (2) instead of providing you with treatment your commander referred you to court-martial, (3) you have been seen by the Department of Veterans Affairs for treatment and have been diagnosed with a personality disorder, (4) you have never been "AWOL," (5) you were given bad advice by your counsel which is why you agreed to your discharge and, if you had competent legal representation you

would have never agreed to being discharged with a BCD, (6) your NJPs were a result of your alcoholism, (7) you were often late for work but all of the time does not equate to an AWOL, (8) approximately 40 days after your arrest you were discharged after you served honorably with the only exception being your addiction, (9) if you were offered treatment you would have continued to serve your enlistment, and (10) all of your supervisors knew you had a debilitating drinking problem. Additionally, the Board noted you checked the “PTSD” and “Other Mental Health” boxes on your application but chose to rescind this aspect of your request. For purposes of clemency and equity, the Board noted you provided personal statements but no 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 and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. The Board noted that you were given an opportunity to continue your Navy career, despite committing offenses that resulted in seven NJPs during your first year of active duty, but chose to continue your pattern of misconduct. Therefore, the Board was not persuaded by your contention that you served Honorably prior to your court-martial directed Bad Conduct Discharge (BCD) or that you were somehow not responsible for your own actions. As a result, the Board concluded your conduct constituted a significant departure of that expected of a service member and continues to warrant a BCD. While the Board carefully considered the evidence you submitted in mitigation, 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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 is attached 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,

11/18/2023

