



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. 4171-23
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 24 May 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).

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 enlisted in the Navy and began a period of active duty on 28 June 1995. On 7 October 1996, you received non-judicial punishment (NJP) for dishonorably failing to pay just debts. On 8 October 1996, you were issued administrative remarks/Page 13 retaining you in the Naval service and documenting your misconduct, further advising you that subsequent violation(s) of the Uniform Code of Military Justice or conduct resulting in civilian conviction(s) could result in administrative separation under Other Than Honorable conditions. On 8 November 1996, you were notified of your pending administrative separation by reason of misconduct due to commission of a serious offense at which time you waived your right to consult with military counsel and to have your case heard before an administrative discharge board. On 12 November

1996, your Commanding Officer (CO) recommended to the separation authority that you be discharged with a General (Under Honorable Conditions) (GEN) characterization of service by reason of commission of a serious offense due to your continuing failure to pay your just debts. Ultimately, on 18 November 1996, you were discharged with a GEN characterization of service.

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 characterization of service and your contentions that your immaturity was a factor in your conduct and you are now an upstanding citizen. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

After a 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 NJP, outweighed these potentially 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. Additionally, characterization of service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your military behavior average was 1.0. An average of 2.0 in military behavior was required at the time of your separation for a fully Honorable characterization of service. Finally, in regard to your contention that your misconduct was the result of your youth, the Board felt that your record clearly reflected your willful misconduct despite your counseling sessions to include financial counseling at the local Fleet Service Center. As a result, the Board concluded significant negative aspects of your service outweigh the positive aspects and continues to warrant a GEN characterization. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not 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,

6/7/2023

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