



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. 9289-23
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.

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 29 January 2024. 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 commenced a period of active duty on 18 July 1988. While at Nuclear Field "A/Accession" School you received your first nonjudicial punishment (NJP) for failing to conduct your study hours and for failing to complete training. You were awarded restriction for 14 days and to be reduced in rank (suspended for six months). You were issued administrative remarks retaining you in the naval service yet documenting these deficiencies and advising your that further deficiencies in your performance and/or conduct may result in administrative separation processing under Other Than Honorable (OTH) conditions.

You reported to █ on 29 January 1991. During your tenure on board █, you received three additional NJPs for infractions ranging from unauthorized absence (UA) to dereliction in the performance of your duties. You were

subsequently notified of your pending administrative processing by reason of pattern of misconduct (POM), at which time you waived your rights to consult with counsel and to have your case heard before an administrative discharge board. On 1 March 1991, the separation authority directed you be discharged with an OTH for POM and, on 21 March 1991, 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 Memos. These included, but were not limited to, your desire to upgrade your discharge and contentions that: (1) you did not deserve your original discharge, (2) you received letters of commendation and letters of appreciation from Admirals and dignitaries, (3) you were a member of an Honor Guard during deployment, and (4) you were one of only two Master Helmsmen on board. For purposes of clemency and equity consideration, the Board noted you provided your three letters of appreciation, your final qualification as Master Helmsman, and two character 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 found that your conduct showed a complete disregard for military authority and regulations. The Board was not persuaded by your argument that your assigned characterization of service was undeserved. The Board noted that you were provided multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct. While you may have performed well when not involved in misconduct, the Board determined your misconduct was detrimental to the good order and discipline of your unit. As a result, the Board concluded your conduct constituted a significant departure of that expected of a service member and continues to warrant an OTH. 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 mitigating 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,

2/9/2024

