



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. 10195-23
Ref: Signature Date



Dear █

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 submitted within the statute of limitations, the Board found it in the interest of justice to review your request. 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 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 from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).

You enlisted in the United States Navy and commenced a period of active duty on 17 January 1980. You served honorably from 17 January 1980 to 15 September 1983. You immediately reenlisted and began a second period of service on 16 September 1983.

In March and April 1984, you were notified of indebtedness related to the issuance of bad checks and your requirement to pay the debt. In July and August 1984, you were formally counseled on numerous occasions regarding indebtedness and the possible ramifications for not paying on a just debt.

On 31 May 1985, you received a psychiatric evaluation wherein the treating physician noted that you demonstrated poor impulse control, poor judgement, and impulsive behavior when under routine life stressors. The mental status exam revealed no overt psychiatric disease, thought

disorder, or organic brain disease. You were diagnosed with Mixed Character Disorder, Severe, and recommended for administrative separation at the convenience of the government.

On 6 June 1985, you were found guilty at non-judicial punishment (NJP) of violating Uniform Code of Military Justice Article 134, for dishonorably failing to pay a debt. You were awarded 45 days extra duties and a suspended reduction in rank. You did not appeal this NJP.

On 25 June 1985, you were notified that you were being processed for an administrative discharge by reason of misconduct due to pattern of misconduct as evidenced by your established pattern of dishonorably failing to pay just debts. You waived your right to consult with qualified counsel and your right to present your case at an administrative separation board. On 23 July 1985, you were discharged from the Navy with an Other Than Honorable (OTH) characterization of service and an RE- 4 reentry code.

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: (1) your desire to change your discharge characterization and type of discharge, (2) your assertion that your spouse issued bad checks unbeknownst to you, and (3) the life stressors that occurred during your service. For purposes of clemency and equity consideration, the Board noted that you did not provide advocacy letters or documentation of post-service accomplishments.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your numerous administrative counseling warnings and NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact that it involved a failure to pay just debts for over a one-year period. Further, the Board also considered the negative impact your conduct had on the good order and discipline of your command. The Board determined that such misconduct is contrary to the Navy core values and policy and places an unnecessary burden on your chain of command. The Board felt that your command gave you a substantial amount of time to resolve your financial issues, acknowledging your life stressors. The Board also determined that you were given sufficient notice regarding the administrative and punitive ramifications of failure to pay the just debt. When notified that you were being processed for administrative separation, you waived your rights and declined to present any matters in defense or mitigation. The Board concluded that your conduct constituted a significant departure from that expected of a Sailor and continues to warrant an OTH. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade.

Lastly, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Therefore, 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



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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,

2/6/2024

