



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

█
Docket No. 10555-23
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 9 February 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 Navy and began a period of active service on 1 March 1985. On 9 September 1985, you underwent a mental health evaluation and were diagnosed with reactive depression of your job status. You were recommended for stress counseling and reassignment to a new duty section. On 24 February 1986, you were counseled regarding your disrespect towards superiors and customers, your unacceptable levels of personal hygiene, lack of initiative, and need for supervision.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, 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. Your Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that you were separated from the Navy on 1 March 1985 with a General (Under Honorable Conditions)

(GEN) characterization of service, your narrative reason for separation is “Unsatisfactory Performance – Failure to Perform Duty Assignment Satisfactorily,” your separation code is “JHJ,” and your reenlistment code is “RE-4.” Your final performance trait average was 2.4.

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 characterization and your contention that you experienced anxiety during your service, the anxiety impacted your attitude, and you had a history of seizures and high blood pressure during your service. Additionally, the Board noted you checked the “Other Mental Health” box on your application but chose not to respond to the Board’s request for supporting evidence. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. In reviewing your record, the Board determined your narrative reason for separation is supported by your record of poor performance as evidenced by your poor performance evaluation, counseling, and performance trait average. Additionally, the Board also noted that you provided no evidence, other than your personal statement, to substantiate your contentions. Finally, the Board determined that your final performance trait average is insufficient to qualify for a fully Honorable characterization of service. 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 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 determined you provided insufficient evidence to overcome the presumption of regularity 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,

3/1/2024

