



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. 10308-23
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 6 May 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, 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 Naval and began a period of active duty on 22 September 1992. On 31 August 1994, you were honorably discharged by reason of reduction in force. On 30 January 2000, you were honorably discharged from the Navy Reserve. You later reenlisted in the Naval Reserves and began a period of active duty on 28 September 2001. On 20 July 2003, you were honorably discharged by reason of completion of required active duty service.

On 26 July 2005, you again reenlisted in the Naval Reserves. On 5 September 2006, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to drug abuse, at which point, you requested to have your case heard by an Administrative Discharge Board (ADB). On 13 December 2006, the ADB voted (3) to (0) that you committed misconduct due to drug abuse and recommended you be discharged with a General (Under Honorable Conditions) (GEN) characterization of service. On 6 February 2007, your commanding officer ADB recommendations. On 12 March 2007, the separation authority approved the ADB recommendation. On 17 March 2007, 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 Memo. These included, but were not limited to your desire for a reentry code upgrade and contentions that: (a) you were going through a very difficult time in your life and were not able to seek help or advice, (b) you had recently been divorced and were very depressed, (c) you have committed your life to Christ and became a better man, (d) you were able to complete a degree in electronics and also studied aviation and became a Certified Flight Instructor (CFI), and (e) you have been working with █ for over 25 years and became a network manager. Additionally, the Board noted you checked the "PTSD" and "Other Mental Health" boxes 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 supporting 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 drug abuse separation, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. Further, the Board considered the likely negative effect your conduct had on the good order and discipline of your unit. Finally, the Board noted that you already received a large measure of clemency from the Navy when they chose to award you a GEN characterization for an offense that normally warrants an Other Than 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. While the Board commends your post-discharge accomplishments, 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. 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,

5/24/2024

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