



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. 487-24
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 12 June 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).

You enlisted in the Navy and commenced a period of active duty on 1 June 1984. On 6 June 1986, you received nonjudicial punishment (NJP) for a period of unauthorized absence (UA) lasting 32 days and for missing ship's movement. Subsequently, you were UA three additional times and twice missed ship's movement, for which you were found guilty at a summary court martial (SCM) and sentenced to confinement at hard labor for 30 days. Consequently, on 4 February 1987, you were notified of your pending administrative processing by reason of commission of a serious offense, at which time you waived your rights to consult with counsel and to have your case heard before an administrative discharge board. The separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service for a commission of a serious offense and, on 30 March 1987, 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 to upgrade your discharge and contentions that: (1) your youth and the love of your father were mitigating factors in your discharge, (2) you went

UA to be with your father because he was having critical surgery to remove a brain tumor, (3) you made a bad decision that you have since regretted but would make the decision again to be with your father, and (4) you request compassion. For purposes of clemency and equity consideration, the Board noted you provided character letters that describe post-discharge accomplishments.

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 NJP and SCM, 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. Additionally, the Board noted you were provided an opportunity to correct your conduct deficiencies but chose to continue to commit misconduct. The Board was not persuaded by your contentions and noted, even though you appear to show contrition, you admit that you would commit the same misconduct under the same circumstances.

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 discharge. While the Board carefully considered the evidence you submitted in mitigation and commends you for 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. 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,

6/25/2024

