



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. 1095-24
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 8 April 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 Navy and began a period of active duty on 26 February 1986. On 1 August 1988, you were evaluated by a medical officer as a result of depression and suicidal ideations, and diagnosed with Adjustment Disorder / Depressed mood, Mixed Personality Disorder with immature and histrionic features. On 7 August 1988, you were evaluated by a medical officer and diagnosed with Mixed Personality Disorder with immature and histrionic features. On 19 August 1988, you were evaluated by a medical officer and again diagnosed with a personality disorder and recommended for administrative separation.

On 17 November 1988, you received nonjudicial punishment (NJP) for disobeying a lawful order by receiving controlled items and attempting to sell them to a █ local national, wrongfully disposing of controlled items by not receiving prior authorization, dereliction of duty, and disobeying a lawful order. On 21 November 1988, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to commission of a serious

offense and later decided to waive your procedural rights. On 20 December 1988, you received a second NJP for falsifying an official document and intent to be deceived by falsifying a document. On 27 December 1988, your commanding officer recommended an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to commission of a serious offense. The separation authority approved the recommendation and ordered an OTH discharge characterization by reason of misconduct due to commission of a serious offense. On 15 February 1989, 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 discharge upgrade and contentions that: (a) the command you were attached to was investigated and the commanding officer was found guilty of fostering racism/discrimination within his command, (b) your commanding officer continuously insulted your heritage and revoked your emergency leave, (c) your commanding officer cursed at you and then cursed your family. 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 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. Additionally, the Board considered the likely negative impact it had on the good order and discipline of your unit. Further, the Board found no evidence to substantiate your contention that you were somehow treated unfairly. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH 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. 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,

4/25/2024

