



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. 1693-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 6 March 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You entered active duty with the Navy on 10 February 1987. On 18 May 1987, you were formerly counseled on wearing civilian clothes without authorization. On 1 December 1987, you received non-judicial punishment (NJP) for wrongfully drinking alcohol under the age of 21 and drunk and disorderly conduct. On 18 May 1989, you received NJP for insubordinate conduct toward a non-commission officer (NCO), two specifications of failure to obey a lawful order, and falsification of an official record. Consequently, you were notified of pending administrative separation action by reason of misconduct due to minor disciplinary infractions. On 7 August 1989, you were disqualified from submarine duty due to misconduct. On 8 November 1989, you were once again notified of pending administrative separation due to your commanding officer (CO) changing your separation reason to misconduct due to commission of a serious offense.

You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). The ADB found that you committed misconduct due to commission of a serious offense and recommended you receive an Other Than Honorable (OTH) discharge. Your commanding officer (CO) disagreed with the ADB's recommendation and recommended a General under Honorable Conditions (GEN) characterization of service. The separation authority (SA) concurred with the CO's recommendation and directed a GEN discharge by reason of misconduct due to commission of a serious offense. On 23 February 1990, 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 contention that you were young and immature, did not receive proper representation, and became a productive citizen and registered nurse. For purposes of clemency and equity consideration, the Board noted you provided a personal statement and evidence of your nursing license.

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 the likely negative impact your conduct had on the good order and discipline of your command. Further, the Board noted that your record clearly reflected your misconduct and the evidence of record did not show that you were not responsible for your conduct or that you should not be held accountable for your actions. Additionally, contrary to your contention that you were not properly represented, the Board noted you were assigned a judge advocate as part of your ADB process and received a GEN characterization despite the findings of the ADB. The Board determined you were fortunate to receive a GEN discharge and, more likely than not, your command already provided you a measure of clemency based on your age and lack of maturity at the time.

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 carefully considered the evidence you provided 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 mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. Accordingly, given the totality of the circumstances, the Board determined 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,

3/25/2024

