



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

█
Docket No. 2284-24
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 8 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, 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 entered active duty with the Navy on 26 February 2001. On 23 July 2001, your commanding officer (CO) referred you for a medical evaluation due to your recent visit to the hospital, which resulted in you having a Blood Alcohol Content of .33. On 24 July 2001, you received a medical evaluation that recommended you attend an Outpatient Treatment Program due to alcohol abuse. On 1 August 2001, your CO assigned you to a Level I Outpatient Treatment program. On 8 August 2001, you were involved in an alcohol related incident. On 15 August 2001, you started your Level I Treatment Program, which was upgraded to Level II Treatment on 17 August 2001. On 20 August 2001, you consumed alcohol while attending the Level II Treatment Program. On 13 September 2001, you successfully completed the Level II Treatment Program and were informed that you were to attend mandatory aftercare meetings. On 17 September 2001, you were formerly counseled on being placed on the command's aftercare program.

On 11 October 2001, the Drug and Alcohol Program Advisor (DAPA) recommended you for administrative separation due to Level II aftercare failure as evidenced by your involvement in a situation where underage drinking took place, your failure to report the incident, and admitting to not attending your aftercare meetings. On 24 October 2001, you received non-judicial punishment (NJP) for unauthorized absence (UA). Subsequently, you were notified of pending administrative separation action by reason of alcohol rehabilitation failure. After waiving your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge with a General (Under Honorable Conditions) (GEN) characterization of service. The SA approved the CO's recommendation and directed a GEN characterization of service by reason of alcohol rehabilitation failure. On 30 November 2001, 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 you were treated for alcoholism and been sober for 10 years. Additionally, the Board noted that you checked the "PTSD" and "Other Mental Health" box on your application but did not 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 your misconduct, as evidenced by your NJP and rehabilitation failure, outweighed the potential 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. The Board also found that your conduct showed a complete disregard for military authority and regulations. Finally, the Board noted you were given an opportunity to receive proper treatment for your alcohol dependency but chose not to complete the aftercare treatment program.

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 you for your recent sobriety, 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 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

