



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. 2544-24
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 13 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 Navy and began a period of active duty on 17 May 1995. On 23 January 1998, you received nonjudicial punishment (NJP) for debt and dishonorably failing to pay. On 4 February 1998, you were counseled concerning the aforementioned NJP violations and advised that failure to take corrective action could result in administrative separation.

On 20 August 1999, you reenlisted and began a second period of active duty service. On 10 May 2001, you received NJP for making and drawing checks without sufficient funds, debt, and dishonorably failing to pay. On 14 May 2001, you were counseled concerning your misuse of a U.S. Government credit card, making a check without sufficient funds, debt, and dishonorably failing to pay. You were advised that failure to take corrective action could result in administrative separation. On 8 August 2001, you were counseled concerning support for your family members. You were advised that failure to fulfill your obligation towards your family may result in disciplinary action.

On 4 September 2001, you received another NJP for making and drawing checks without sufficient funds, debt and dishonorably failing to pay, and three instances of bigamy. Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct and commission of a serious offense. Subsequently, you decided to request a hearing by an Administrative Discharge Board (ADB). On 10 October 2001, the ADB voted (3) to (0) that you committed misconduct due to pattern of misconduct and commission of a serious offense. Your commanding officer recommended an Other than Honorable (OTH) discharge characterization by reason of misconduct due to pattern of misconduct and misconduct due to commission of a serious offense. The separation authority approved the recommendation and, on 9 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 for a discharge upgrade and contention that: (a) you are requesting an upgrade in order to end the 23 year long nightmare, (b) the correction should be made to help you clean your name with the U.S. military, (c) your misconduct charge should be changed due to the passage of time. Additionally, the Board noted you checked the "PTSD" box on your application but chose not to respond to the Board's request for supporting evidence of your claim. For purposes of clemency consideration, the Board noted you did not provide 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. The Board noted that you were given the opportunity to correct your conduct deficiencies but continued to commit misconduct. Further, the Board considered the likely negative impact it had on the good order and discipline of your unit. Finally, the Board also noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years.

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,

5/30/2024

