



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. 7069-24
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 26 July 2024, has carefully examined your current 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 to 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 the understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on evidence of record.

You previously applied for a discharge upgrade to this Board and were denied on 25 October 2018. The facts of your case remain substantially unchanged. However, you did not submit any letters of support for consideration of clemency at that time.

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 your contentions that your decision to absent yourself without authority from required reserve drills was directly influenced by racial harassment which you experienced at your unit. You felt the harassment created a hostile environment, reported it to your chain of command without receiving any response, and believe you would have continued to serve in the Marine Reserve if appropriate action had been taken. You feel that an upgrade of your discharge characterization would

acknowledge the injustice you faced and grant you eligibility for veteran health benefits. For purposes of clemency and equity consideration, the Board noted you submitted four character 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 failure to attend scheduled drills, 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. In reviewing your character letters, the Board found information that raised questions about your contentions.

In one of your letters of support, a friend who has known you for over 20 years attested that you are always willing to help others and tutored her during a particularly difficult college course. Although she states that you were the friend she could always rely on for encouragement and help. However, the Board noted that the Marines in your reserve unit were similarly not able to rely on you, especially after you elected to continuously miss drills in the months immediately following the 9-11 terrorist attacks. Your second letter of support makes it clear that you were enrolled as a college freshman in 1999 where you participated in the band with enthusiasm and energy, and were also a member of the Phi Beta Sigma fraternity as well as the Beta Phi Delta band organization on the campus, which you helped found. The Board observed that this letter of support implies that you continued your university academics into the period of 2000 and 2001, which was the time of majority of your missed drills, concurrent with the spring and fall academic semesters of the 2001-2002 school year. However, the Board noted you appeared to have no issue attending drill periods during the summer months, in spite of your purported reason for missing drills being due to your inability to return to the hostility of the racial discrimination you faced at your reserve unit. Additionally, you submit a third letter of support which confirmed that you and your fellow band members experienced a traumatic assault by fans of a rival team who ambushed you “with all manner projectiles.” He further elaborated that incidents like that happened frequently enough for you to be on “high alert” and be there to help protect your fellow band members. In regard to this information, the Board found it curious that you claim to have stopped drilling due to your experience of intolerable racism at your reserve unit but continued to participate in your university band in spite of frequent incidents of being assaulted by rival opponent’s fans. With the exception of a fourth letter from a co-worker who extols your many positive character traits, to include your humility in acknowledging your unspecified “prior improper actions,” the Board overwhelmingly found that the majority of the information contained in your letters of support runs counter to your claimed rationale for your missed drills. Instead, the Board determined they reflect negatively upon your reasons for not fulfilling your commitment to the Marine Corps.

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. While the Board carefully considered the evidence you submitted in mitigation, 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 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,

8/14/2024

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