



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

█  
Docket No: 1440-21  
Ref: Signature Date



Dear █

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 24 March 2021. 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 enlisted in the Navy and began a period of active duty on 8 August 1990. On 6 March 1992, you received non-judicial punishment (NJP) for two periods of unauthorized absence totaling 43 days. On 3 May 1992, you received your second NJP for failure to go to your appointed place of duty, failure to obey a lawful order and assault.

Subsequently, you were notified that you were being recommended for administrative discharge from the naval service because of misconduct due to commission of a serious offense. You were advised of, and waived, your procedural rights, including your right to consult with, and be represented by, military counsel, and your right to present your case to an administrative discharge board (ADB). Your commanding officer (CO) recommended administrative discharge from the naval service with an other than honorable (OTH) characterization of service. The separation authority approved the CO's recommendation and directed your OTH discharge by

reason of misconduct due to commission of a serious offense. On 21 December 1992, 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 your contentions that: (1) you were called a racial slur by your direct Petty Officer in charge on several occasions; you felt like it was a hostile working environment, and when you addressed these actions you were then removed from the ship and held at a Navy barracks with no counsel; (2) you were handcuffed in the Master-At-Arms office, and detained for 48 plus hours and there were witnesses who were not allowed to give statements; (3) you were told that you made threatening statements, which were completely fabricated; and (4) after you were released from your brief incarceration, you was given an ultimatum to go away or face a court-martial for something that you did not do.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by two NJPs, and a SPCM conviction, outweighed these mitigating factors. Additionally, there is no evidence in your record and you presented no such evidence to support your contentions. 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,

4/5/2021

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Executive Director

Signed by: \_\_\_\_\_