



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

█  
Docket No: 1168-22  
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 25 February 2022. 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).

Prior to your enlistment you received a waiver for your civil conviction for petty larceny. You enlisted in the Navy and began a period of active service on 28 September 2000. On 20 September 2006, you received non-judicial punishment (NJP) for larceny and wrongful appropriation, and false official statement. You were sentenced to reduction in rank from E-5 to an E-4, and forfeiture of pay. On 21 September 2006, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to the commission of a serious offense, at which point, you waived your right to consult with counsel. On 2 October 2006, your commanding officer recommended your discharge from naval service with a general character of service by reason of misconduct due to the commission of a serious offense. On 10 October 2006, you were so discharged. On 11 June 2021, you were issued a Certificate of Release or Discharge From Active Duty (DD Form 215) which adds your honorable period of continuous service from 28 September 2000 to 13 February 2005.

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 character of service to honorable, and reinstatement of your rank to E-5. You contend your commander was dishonest, and that if your request does not get resolved you will get a lawyer to aide you in your request. Based upon this review, the Board concluded these potentially factors were insufficient to warrant relief. Specifically, your allegations, unsupported in the record or by submission of documentation failed to overcome that presumption. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You contend you are missing opportunities without an honorable discharge. Please note your DD Form 215 which notates your honorable period of service may make certain benefits available to you. The Board considered you would like benefits available to veterans who receive an honorable characterization of service. Eligibility of certain benefits are determined by your local, state, or federal department of veterans' affairs, please forward your DD Form 215 to these agencies to update your eligibility.

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,

3/11/2022

[REDACTED]  
Executive Director  
[REDACTED]

[REDACTED] Form 215