



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

█  
Docket No. 4822-22  
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 7 November 2022. The names and votes of the members of the panel 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 this 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.

The Board determined that a personal appearance with or without counsel would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

A review of your record shows that you enlisted in the Navy and commenced a period of active duty on 27 September 1994. On 28 November 1995, you were in an unauthorized absence status for a period of 24 hours. On 8 December 1995, you received nonjudicial punishment for unauthorized absence, disobeying an order, and for making a false official statement. On 8 December 1995, you received a written warning concerning your marks of 2.8 in reliability and military bearing. On 22 February 1996, you received a written warning concerning the consequences of committing further misconduct. On 22 April 1996, you received a second nonjudicial punishment. The final documents concerning this nonjudicial punishment are not available in your service record, but other records from around that time reflect an investigation into selling goods stolen from other Sailors. On 1 May 1996, you were notified of the initiation of administrative separation processing for commission of a serious offense and your rights in connection therewith. You waived your rights, including to an administrative separation Board,

with the exception of obtaining copies of documents transmitted to the Chief of Naval Personnel supporting the basis for your proposed separation. On 7 May 1996, your commanding officer transmitted his recommendation that you be discharged with an Other Than Honorable (OTH) characterization of service. On 17 July 1996, the separation authority directed that you be discharged with an OTH characterization of service and, on 22 July 1996, you were so discharged.

In your petition, you request that your discharge be awarded a medical discharge. In support of your request, you contend that, during your time in the Navy, you were suffering from possible post-traumatic stress disorder, mental instability, physical deterioration, and mental and social abuse. You also assert that you were suffering from alcohol abuse while you were on active duty, and it was not addressed by the Navy. Finally, you explain that you need medical care in order to continue to live as a productive citizen.

The Board carefully reviewed all of your contentions and the material that you submitted in support of your petition, including the medical documentation and statements that you provided. Unfortunately, the Board disagreed with your rationale for relief. In reaching its decision, the Board observed that, in order to qualify for military disability benefits through the Disability Evaluation System with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health of the member or to the welfare or safety of other members; the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting.

In reviewing your record, the Board concluded the preponderance of the evidence does not support a finding that you met criteria for unfitness at the time of your discharge. In light of the foregoing standard applicable to the disability evaluation system, the Board did not discern any facts that would support you being eligible for a medical retirement, which, as noted above, would require findings that you were considered unable to perform the duties of your rating. All factors demonstrate that you were able to perform the duties of your rating, and in fact, there are no indications that you were unable to work within your rating. Rather than performance-based concerns, the available service record entries demonstrate that you were in fact discharged as a result of misconduct, which included the imposition of nonjudicial punishment on two occasions. Your service record did not contain any evidence of a potentially unfitting condition while you were on active duty, nor did you provide any such evidence. Thus, in light of the foregoing, the Board did not discern any error or injustice in your naval records and denied your petition.

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,

12/6/2022

[Redacted Signature]

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Executive Director  
Signed by: [Redacted Name]