



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

■  
Docket No: 5608-22  
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 19 September 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).

The Board determined that your 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.

You enlisted in the Navy and began a period of active duty on 5 June 1990. In November 1990, you received your first nonjudicial punishment (NJP) for a period of unauthorized absence (UA). On 30 November 1990, administrative remarks document you were issued an enlisted report containing derogatory contents and chose not to make a statement. In March 1994, you received NJP for another UA. On 23 June 1994, you were issued administrative remarks documenting the deficiencies in your conduct and advising you that further deficiencies in your performance and/or conduct will make you eligible for administrative separation processing. In September

1995 and December 1995, you received your third and fourth NJPs for additional specifications of UA. As a result, on 22 December 1995, you were notified of administrative separation processing for pattern of misconduct (POM), at which time you waived your right to consult with military counsel and have your case heard before an administrative separation hearing. After your commanding officer recommended an Other Than Honorable (OTH) characterization to the separation authority (SA), on 31 January 1996, the SA directed you be discharged with an OTH for POM. On 7 February 1996, 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 served honorably and the only misconduct you committed was being late, never AWOL (absence without leave), (2) you requested to be discharged 90 days early but were denied and told you would have to deploy to Okinawa, Japan, (3) you were newly married and were experiencing pressure from your family and parents that were pulling you in multiple directions causing you stress and depression, (4) you believe your punishment was unjust, and (5) you were offered to accept an OTH discharge or you would have to deploy to Okinawa so you accepted the discharge. For purposes of clemency consideration, the Board noted you provided advocacy letters and evidence of active duty accomplishments but no supporting documentation describing post-service accomplishments.

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 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. Additionally, the Board considered the likely negative effect your conduct had on the good order and discipline of your command. The Board noted your CO's comments in his recommendation for your separation in which he stated that you were "an administrative burden since reporting to this command." While the Board also noted that your initial period of active duty may have been relatively positive, your performance record from March 1994 until your discharge in February 1996 was far from honorable. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Sailor and continues to warrant an OTH characterization. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. 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,

10/6/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]