



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

█  
Docket No: 5672-22

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.

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 26 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, 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 3 December 1984. On 13 July 1986, you began a period of unauthorized absence (UA) which lasted two-days and resulted on nonjudicial punishment (NJP) on 3 September 1986. On 9 September 1986, a CAAC evaluation revealed that you were psychologically dependent on alcohol. On 12 September 1986, a medical officer diagnosed you with alcohol dependence in remission mixed with personality disorder and aggression, at which point, you declined to participate on any rehabilitation program. On 15 September 1986, you were convicted by civil authorities for assault and breach of peace. You were sentenced to a \$200.00 fine and 18 months of probation. On 22 September 1986, you were notified of the initiation of administrative separation proceedings by reason of alcohol rehabilitation failure. On 24 September 1986, you decided to waive your procedural rights. On 30 September 1986, your commanding officer (CO) recommended a General (Under Honorable Conditions) (GEN) discharge characterization of service by reason of alcohol rehabilitation failure. On 26 October 1986, the discharge authority recommended that your reason for

separation be changed to reflect misconduct due to civilian conviction and alcohol rehabilitation failure. On 5 November 1986, you were re-notified of the initiation of administrative separation proceedings by reason of misconduct due to civilian conviction and alcohol rehabilitation failure. On the same date, you decided to waive your procedural rights. On 10 November 1986, your CO recommended an Other Than Honorable (OTH) discharge characterization by reason of misconduct due to civilian conviction and alcohol rehabilitation failure. On 16 December 1986, the discharge authority approved and ordered an OTH discharge characterization by reason of civilian court conviction. On 23 December 1986, you were discharged.

On 7 May 2013, this Board denied your request for a discharge characterization upgrade.

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 for a discharge upgrade and contentions that you were a victim of injustice and that your civilian conviction was used to justify an OTH characterization. For purposes of clemency consideration, the Board noted you provided an advocacy letter and copy of your criminal history record.

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 NJP and civilian court conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact it had on the good order and discipline of your unit. The Board noted that you were given the opportunity to contest your administrative separation process but chose to waive your due process rights. Further, the Board took into consideration your refusal to accept rehabilitation treatment from the Navy. Finally, the Board noted that you did not provide evidence to substantiate your contentions of unfair treatment. 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. While the Board commends your post-discharge good character, 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 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 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, \_\_\_\_\_  
10/11/2022



Executive Director

