



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

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Docket No: 6825-22  
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 30 November 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 United States Naval Reserve (USNR) and completed your initial active for training period of service from 30 December 1987 to 3 June 1988. Subsequently, you entered the Ready Reserves. On 19 August 1989, you signed and acknowledged the satisfactory participation requirements expected of you in the ready reserves. You were counseled, on 17 November 1990, that if you became an unsatisfactory drill participant, your active duty requirements would change. On 11 March 1993, you were directed to report to active duty training (ADT). Your record reflects an unacknowledged notification of the initiation of separation proceedings due unsatisfactory participation in ready reserve as evidence by your

failure to report for involuntary active duty for training. Consequently, your failure to acknowledge receipt of your notification, resulted in waiving your procedural rights. Subsequently, your commanding officer recommended your separation from the Navy Reserve with an Other Than Honorable (OTH) character of service by reason of unsatisfactory participation. Your commanding officer notes you made no attempt to contact the unit and correct your drill status. On 16 February 1994, you were discharged with an OTH characterization of service due to your unsatisfactory participation.

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 and contentions that you had 5 1/2 years of good service, you had to reschedule your drill weekends to avoid losing your job during a period in which your daughter had to undergo kidney surgery. For purposes of clemency and equity consideration, the Board noted you provided a personal statement.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your failure to report for active duty, 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 your military obligations. Additionally, the Board noted that you did not provide any evidence to substantiate your contentions. In fact, the Board concluded that your commanding officer's comments in his recommendation to separate you contradict your contentions. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting an upgraded characterization of service as a matter of clemency or equity. Accordingly, given the totality of the circumstances the Board found no indication to support adjustment to your record.

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,

12/21/2022

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Executive Director

Signed by: █