



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

█  
Docket No. 2703-23

Ref: Signature Date

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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 submitted within the statute of limitations, the Board found it in the interest of justice to review your request. A three-member panel of the Board, sitting in executive session, considered your application on 23 October 2023. 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 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, 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 United States Navy and commenced a period of active duty on 3 April 1986. In March 1987, you were involved in two alcohol related incidents. You were counseled by your command regarding alcohol abuse and were issued a retention warning.

After another alcohol incident in April 1987, you were screened, found to be alcohol dependent, and referred to in-patient treatment. On 16 July 1987, you successfully completed Level III Alcohol Treatment. The Report of Treatment at Tri-Service Alcoholism Recovery Department

listed diagnoses of Alcohol dependence in remission and Avoidant Personality Disorder. You were directed to attend a minimum of four Alcoholics Anonymous (AA) meetings per week for 12 months.

On 21 December 1987, a second alcohol related incident report was filed in your record, documenting your arrest by civilian police for reckless driving and a hit and run. The indecent report noted underage drinking, although you were ultimately convicted of only charges related to leaving the scene. On 5 January 1988, a fourth alcohol related incident report was filed in your record, documenting an unprovoked assault on a Marine while you were intoxicated.

On 7 January 1988, you received non-judicial punishment (NJP) for violating Uniform Code of Military Justice (UCMJ) Article 86, for a 2.5-hour unauthorized absence (UA), Article 92, for failure to obey an order (FOLO) by consuming alcohol, Article 108, for willful destruction of government property by throwing a rock through the quarterdeck window, Article 113, for sleeping on duty, and Article 134, for wrongfully possessing another person's license with the intent to defraud. You did not appeal this NJP. That same day, you reported to sickbay, expressing a desire to stop drinking. You were prescribed Antabuse, directed to continue AA, and return to Command DAPA.

On 31 January 1988, you received a performance evaluation wherein it was noted that "[Applicant] has no potential for further naval service He lacks the maturity necessary to deal with his alcoholism and has allowed it to ruin his Navy career and disrupt the command. [He] displays far below average performance. He does not follow orders well. Is argumentative and often questions his seniors." On 30 March 1988, you were notified that you were being processed for an administrative discharge by reason of alcohol rehabilitation failure. You objected to this separation and elected your right to consult with qualified counsel and your right to present your case at an administrative separation (ADSEP) board. Your Commanding Officer positively endorsed your separation, stating that you had been "diagnosed as alcohol dependent, and received Level III rehabilitation treatment. In less than six months after ... [treatment], he has been involved in three separate alcohol related incidents. To date, he has been involved in a total of five alcohol related incidents...[He] is considered to have no potential for further naval service..." On 21 May 1988, the Separation Authority informed the Command that it needed to reprocess and notify you of all reasons for which you would be considered for discharge.

On 24 May 1988, you were counseled for pattern of minor disciplinary infractions and UAs as evidenced by two NJPs and numerous alcohol related incidents. On 10 June 1988, you received your second NJP for violating UCMJ Article 91, for striking a petty officer, Article 92, for FOLO by drinking alcoholic beverages, and Article 134, for two specifications involving breaking restriction and drunk and disorderly. On 29 June 1988, you received your third NJP for violating UCMJ Article 92, for two specifications of drinking on duty and FOLO by consumption of alcohol, Article 102, for two specifications of willfully damaging government property by throwing a chair from the second deck of █ and incapacitation for duty as a

result of wrongful previous overindulgence of intoxicating liquor or drugs. You did not appeal either NJP.

On 13 July 1988, you were again notified that you were being processed for an administrative discharge, this time by reason of Misconduct-Commission of a Serious Offense, Pattern of Misconduct, and Alcohol Rehabilitation Failure. You again elected your right to consult with qualified counsel and your right to present your case at an administrative separation (ADSEP) board. On 15 July 1988, the ADSEP board convened and, by a vote of 3 to 0, found that all three bases for discharge were met, and recommended separation from the service with an Other Than Honorable (OTH) characterization.

On 9 August 1988, you received a Psychiatry Examination wherein you were diagnosed with “Alcohol dependence in partial remission, Cannabis abuse (in remission), and Anti-social Personality Disorder, Sever.” The physician recommended “Treatment: 1. Return to full duty, psychiatrically fit for same, no clinic follow-up, 2. Pt was fully responsible for his actions, 3. No psychiatric reason the patient cannot continue in restricted status until mast, 4. Discussed above with patient and emphasized the important role AA can have in his life after ADSEP.” Prior to your discharge, you were offered in-patient treatment. You initially elected to participate in alcohol rehabilitation, but then expressed that you no longer desired to accept treatment for alcohol abuse prior to separation.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, 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. Your Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that you were separated from the Navy on 3 October 1988 with an Other Than Honorable (OTH) characterization of service, your narrative reason for separation is “Misconduct – Pattern of Misconduct,” your separation code is “GKA,” and your reenlistment code is “RE-4.”

Post-discharge, you submitted an application for review by the Naval Discharge Review Board and were denied relief on 3 March 1994.

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: (1) your desire to upgrade your discharge characterization, (2) your youth at the time of your misconduct, (3) your post-service sobriety, and (4) your desire for veterans’ burial benefits. Additionally, the Board noted that you checked the “Other Mental Health” box on your application but chose not to respond to the Board’s 23 May 2023 letter requesting supporting evidence of your claim. For purposes of clemency and equity consideration, the Board noted that you did not provide advocacy letters or documentation related to post-service accomplishments. However, the Board did consider your summary of post-service conduct.

After thorough review, the Board concluded your 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 the fact that it involved repeated alcohol related incidents. Further, the Board also considered the likely negative impact your conduct had on the good order and discipline of your command. The Board determined that alcohol abuse and related misconduct is contrary to the Navy core values and policy, renders such Sailor unfit for duty, and poses an unnecessary risk to the safety of fellow shipmates. A characterization under OTH conditions is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a service member. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. Lastly, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. While the Board commends your post-discharge accomplishments and sobriety, 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 granting you the relief you requested or granting relief as a matter of clemency or equity. 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,

10/28/2023

