



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

█  
Docket No. 7321-23  
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 17 November 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 your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined 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 31 January 1989. Subsequently, you completed Navy Alcohol & Drug Abuse Screening, indicating no alcohol abuse issues, and signed an acknowledgment of the Navy Policy on Drug & Alcohol abuse. The following year, on 21 September 1990, you received non-judicial punishment (NJP) for drunk & disorderly conduct, indecent exposure, and obstructing justice. You next received NJP on 31 January 1991, again for drunk & disorderly conduct. Following this, on 1 February 1991, you were administratively counseled regarding drunk & disorderly behavior. You were retained in the naval service, and corrective actions were recommended to you, along with notice that any further deficiencies in conduct may result in administrative separation. Despite receiving

counseling, on 29 July 1992, you again received NJP; this time for destruction of government property. Lastly, on 15 October 1992, you received NJP for unauthorized absence. As a result, you were notified of administrative separation procedures by reason of misconduct – due to pattern of misconduct, and misconduct – due to commission of a serious offense. You waived your rights related to this process, and indicated you did not object to your separation. On 27 October 1992, you were subjected to a command directed substance abuse evaluation, where you were assessed as not alcohol dependent, and not requiring detoxification or immediate hospitalization, but requiring counseling/rehabilitation. You were referred back to your command for action, and recommended for Level II substance abuse treatment before discharge. However, it is noted in your official naval medical record that you indicated you would refuse treatment. Ultimately, your Commanding Officer recommended you be discharged with an Other Than Honorable (OTH) characterization of service and you were so discharged on 13 November 1992.

On 16 September 1994, the Naval Discharge Review Board denied your request for an upgrade to your characterization of service.

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 change your discharge character, and your contentions that: (1) you were discharged within two months of completing your 4-year obligation, (2) at the time of discharge, you were struggling with alcoholism resulting from your service in the Gulf War, (3) you were not assisted in finding help to better yourself, but were cast aside, and (4) with a GEN characterization, you do not qualify for Veteran's benefits, including help with the alcoholic disability you acquired while serving. In reviewing your application, the Board noted you mentioned being discharged with a General (Under Honorable Conditions) characterization of service. As explained in the chronology of your record, the Board found that you were discharged with an OTH characterization of service. For purposes of clemency and equity consideration, the Board noted you provided a copy of your DD Form 214, copies of your personnel qualifications, copies of various service record documents, and a letter of appreciation from your Commanding Officer on board the █.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded it showed a complete disregard of military authority and regulations. The Board also considered the negative impact your conduct likely had on the good order and discipline of your unit. Therefore, the Board concluded your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service, which was terminated by your OTH. Finally, 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. 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 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 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,

11/21/2023

