



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

█  
Docket No. 8025-23  
Ref: Signature Date

█  
█  
█

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 11 December 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 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 11 July 1990. Starting in 1992, you were counseled numerous times regarding uttering worthless checks and failing to maintain sufficient funds. Due to your mismanagement of funds, you were eventually decertified from the personnel reliability program and disqualified for assignment to nuclear weapon positions. On 3 June 1992 and 2 December 1992, you received your first and second nonjudicial punishments (NJP), respectively, for failing to pay just debts and multiple specifications of uttering worthless checks by dishonorably failing to maintain funds. On 8 January 1993, you received a final NJP for violating a lawful regulation by wrongfully possessing three 12-gauge shotgun shells in your barracks room. You were subsequently notified of your pending administrative processing by

reason of misconduct due to commission of serious offense (COSO), at which time you elected your right to consult with counsel and to have your case heard before an administrative discharge board (ADB). An ADB was convened on 1 April 1993 and found, by a vote of 3 to 0 that you committed misconduct and should be discharged with a General (Under Honorable Conditions) GEN characterization of service. On 21 May 1993, 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 Memos. These included, but were not limited to, your desire to upgrade your discharge and contentions: (1) the conduct which resulted in your Other Than Honorable (OTH) discharge was due to your wife as she was the person who wrote bad checks while you served as a Missile Technician on board █), (2) you immediately separated from her, attempted to sever all ties with her, and filed for divorce in hopes of salvaging your career, (3) after the hard work and dedication you put into what you hoped would be a lifelong career, your unfortunate choice of a spouse led to your unwanted early separation from the Navy, (4) at Captain's Mast/NJP the opposing Judge Advocate General (JAG) stated after a period of time you could apply to change your discharge status, (5) now that your children are older and ask questions about your military career, you find you are ashamed of how it ended, (6) you have been employed at █" for 17 years, (7) you believe it is important for you and your children to have this [upgrade] "done," and (8) a discharge upgrade will "allow my service to our country to show as proud as I have been to share my US Navy stories." For purposes of clemency and equity, the Board noted you did not provide evidence of post-service accomplishments or character letters.

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 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. Further, the Board noted you were given multiple opportunities to correct your deficiencies but continued to commit misconduct. Additionally, the Board was not persuaded by your arguments regarding your wife and noted that your last NJP involved your conduct in the BEQ. As a result, the Board concluded significant negative aspects of your service outweigh the positive aspects and continues to warrant a GEN 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 that your request does not merit relief.

The Board noted that your application implies your belief that you received an OTH characterization upon your discharge from the Navy. As explained above, you were assigned a GEN characterization of service as recommended by your ADB. The Board found no evidence in your record of an OTH.

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 is attached 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,

12/26/2023

