



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

█  
Docket No. 8603-23  
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 an initial period of service on 9 July 1985. During your initial term of service, you received three non-judicial punishments (NJP) for violations of the Uniform Code of Military Justice (UCMJ) Article 134, for falsely altering your dependent's ID application, Article 92, for disobedience by carrying a weapon, Article 86, for a 2.5-hour unauthorized absence (UA), and Article 92, for introducing an alcoholic beverage onboard a vessel. You did not appeal these NJPs. You transferred to the Navy reserves from 9 July 1989 to 26 April 1992, then reenlisted on 27 April 1992 for a second period of active duty service.

During your second term of active duty service, you received three NJPs for violations of the UCMJ Article 86, for numerous periods of UA, and Article 92, for sleeping during working hours. You did not appeal these NJPs. You were also administratively counseled on two occasions, once for these NJPs and once regarding the cancellation of your dependent's allotment. You were directed to restart the allotment and meet all of your financial requirements.

On 21 April 1996, you reenlisted for a final term of active duty service. On 7 May 1996, you were again counseled regarding your "financial support of dependents and other 'just debt' obligations." You were advised to get an official court order regarding your support obligations. On 6 March 1997, you received your seventh NJP, your first during the last enlistment period, for violating UCMJ Article 134, for two specifications of dishonorably failing to pay a just debt and obtaining services under false pretenses. On 26 March 1997, you were notified that you were being processed for an administrative discharge by reason of commission of a serious offense. You elected your right to consult with qualified counsel and your right to present your case at an administrative separation (ADSEP) board. On 11 June 1997, the ADSEP board convened and, by a vote of 3 to 0, found that basis for both failing to pay a just debt and obtaining services under false pretenses was met, and recommended separation from the service with an Other Than Honorable (OTH) characterization. On 18 July 1997, you were discharged from the Navy due to your misconduct with an OTH characterization of service and assigned a RE- 4 reentry code.

You previously submitted an application for review by the Naval Discharge Review Board and were denied relief on 10 August 2000.

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, and (3) the negative impact that an OTH characterization has had on you post-service. For purposes of clemency consideration, the Board noted that you provided documentation related to post-service accomplishments.

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 misconduct and failure to meet your financial obligations. 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 such misconduct is contrary to the Navy core values and policy, and places an unnecessary burden on 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 carefully considered the evidence you submitted in mitigation and commends you on your post-service accomplishments, even in light of the Wilkie Memo and reviewing the record liberally and 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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,

11/7/2023

