



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

[REDACTED]  
Docket No: 5512-17

JAN 2 2019

[REDACTED]  
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, section 1552. After careful and conscientious consideration of the entire record, the Board found the evidence submitted was 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 for Correction of Naval Records, sitting in executive session, considered your application on 23 October 2018. The names and votes of the members of the panel 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.

You enlisted in the Navy on 6 June 1994. On 5 July 1995, you received non-judicial punishment (NJP) for unauthorized absence (UA) totaling 131 days and missing ship's movement. Subsequently, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. After you waived your procedural rights, your commanding officer (CO) recommended an other than honorable (OTH) discharge by reason of misconduct due to commission of a serious offense. The separation authority approved the recommendation and directed your separation under other than honorable conditions by reason of misconduct. On 3 October 1995, you were discharged.

The Board carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge, and your contention that living 36 years with an OTH discharge has outweighed your misconduct. The Board, however, concluded that this factor was not sufficient to warrant relief in your case given the seriousness of your misconduct—a lengthy period of UA and missing ship's movement.

In regard to your contention that living 36 years with an OTH discharge has outweighed your misconduct, the Board disagreed, based on the gravity of your offenses, and, moreover, noted that there is no provision in law or regulations that allows for re-characterization of a discharge after 36 years, due solely to the passage of time.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence not previously 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,

A solid black rectangular box used to redact the signature of the Executive Director.

Executive Director