

DEPARTMENT OF THE NAVY

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

> Docket No: 11414-19 Ref: Signature Date

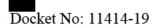
Dear

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 the entire record, the Board for Correction of Naval Records (Board) found that 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, sitting in executive session, considered your application on 23 October 2020. 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, relevant portions of your naval record, applicable statutes, regulations, and policies.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 service on 24 November 1990. On 8 October 1991, you received non-judicial punishment (NJP) for unauthorized absence. On the same day, you were counseled regarding your misconduct, and notified further deficiencies may result in administrative separation. You again received NJP for two separation specifications of UA on 7 May 1992 and 8 July 1992. Your record did not contain all of the information pertaining to your separation from the Navy. However, based on the available information, it appears on or about 14 July 1992, you were notified of administrative separation processing of and you waived your procedural rights. On 8 September 1992, the separation authority approved your discharge and directed your separation by reason of misconduct due to a pattern of misconduct, with an other than honorable (OTH) characterization of service. You were so discharged on 9 September 1992.



The Board carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and contention that you were unjustly treated. You contend you were not offered any defense or counseling at the time of your discharge. You further contend you were given harsh punishment given your age. You assert you were onboard your ship weeks after your enlistment was over.

The Board noted you failed to provide evidence, and your record did not contain evidence to support your contentions. The Board also noted the lack of available records. In such cases, 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. The Board further noted your repeated misconduct, which resulted in three NJPs. After careful consideration of your contentions, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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 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.

