



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

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Docket No. 3706-24

Ref: Signature Date

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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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 23 September 2024. 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, 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).

You enlisted in the Navy and began a period of active duty on 14 November 1983. Between 21 January 1985 and 10 February 1985, you received nonjudicial punishment (NJP) in two occasions for disobeying a lawful order and missing restricted and extra duty musters. On 9 October 1985, you were counseled concerning disobedience of a lawful order, missing muster, missing duty section muster, and poor military performance due to your absence. You were advised that failure to take corrective action could result in administrative separation. On 10 October 1985, you received a third NJP for missing section musters.

On 1 February 1986, you began a period of unauthorized absence (UA) which lasted 17 days. On 27 February 1986, you received a fourth NJP for a period of UA and dereliction of duty. Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct. You elected to consult with counsel and requested a case hearing by an Administrative Discharge Board (ADB). On 27 March 1986, the ADB voted (3) to (0) that you committed misconduct due to pattern of misconduct and

recommended that you be administrative separated with an Other Than Honorable (OTH) discharge characterization. Prior to your discharge, you had a period of UA between 22 May 1986 and 19 June 1986. Ultimately, the separation authority approved the recommendation, and you were so discharged on 20 June 1986.

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 for a discharge upgrade and contentions that: (a) your discharge should be changed because you were experiencing Traumatic Brain Injury (TBI) symptoms while on active duty, and (b) you did not receive and counseling for TBI or military resources, and the information was brought to your attention by family and friends. Additionally, the Board noted that you did not respond to the Board's request for supporting evidence of your TBI claim. For purposes of clemency and equity consideration, the Board noted you provided copies of your Department of Veterans Affairs documents that indicate you were granted a service connection for left eye retinal detachment.

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 likely negative impact it had on the good order and discipline of your unit. Additionally, the Board found that your conduct showed a complete disregard for military authority and regulations. Further, the Board noted that you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct. Finally, the Board observed that you provided no evidence, other than your statement, to substantiate your contentions.

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 that your request does not merit relief.

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.

Sincerely,

10/15/2024

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