



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

██████████
Docket No. 6772-24

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 18 November 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, 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).

During your enlistment processing you disclosed 13 specifications of writing worthless checks, an attempt to elude a police officer, two specifications of speeding, failure to use due care, and were granted an enlistment waiver for attempt to elude. You enlisted in the Navy and began a period of active duty on 6 July 1989. On 21 July 1989, you tested positive for THC while in the accession pipeline. Despite this infraction, you were retained in the naval service, classified as a substance abuser, and enrolled in the urinalysis surveillance program. From 11 May 1990 through 10 November 1990, you received four nonjudicial punishments (NJP) for the following infractions: multiple specifications of failure to obey order, drunk and disorderly, larceny, failure to go to appointed place of duty and absent without leave. Additionally, you were issued multiple administrative remarks documenting your infractions, retaining you in the Navy and advising you that subsequent violation(s) of the UCMJ or conduct resulting in civilian conviction could result in an administrative separation under other than honorable conditions.

On 22 May 1990, because of your alcohol related incidents, you received an alcohol evaluation and were recommended for Level III treatment but did not agree with the recommendation. Consequently, you were notified of your pending administrative processing by reason of commission of a serious offense (COSO) and pattern of misconduct (POM), at which time you waived your right to consult with counsel. Subsequently, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service and, on 11 December 1990, you were so discharged.

The Board carefully considered all potentially mitigating factors to determine whether the interest of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to upgrade your discharge and your contentions that: (1) every infraction you incurred during your service was directly related to your struggle with alcoholism, (2) after being sent to a rehabilitation program, you were returned to your command, where the cycle of alcohol abuse resumed, (3) at the time, the Navy's culture appeared to normalize alcohol use, with beer even being stocked in soda machines on base, which contributed to the challenges you faced in maintaining sobriety, (4) you now understand the reasons behind your reckless behavior, which not only derailed your military career but also put your life at risk on multiple occasions, and (5) having served honorably during the Gulf War, you believe you are deserving of the benefits afforded to veterans. Additionally, the Board noted you checked the "Other Mental Health" box on your application but chose not to respond to the 27 June 2024 letter from the Board requesting evidence in support of your claim. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters in support of your application.

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard for military authorities and regulations. Further, the Board noted you were provided multiple opportunities to correct your deficiencies but continued to commit misconduct. In regard to your request for a medical discharge, there is no indication in your record that you were not found medically fit for duty. Lastly, after reviewing your record, the Board concluded that the negative aspects of your conduct outweighed the positive, even under liberal consideration standards. Therefore, your Other Than Honorable discharge was deemed proper, equitable, and reflective of your service.

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. 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 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,

1/27/2025

