



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

Docket No. 9407-24
Ref: Signature Date

Dear |

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 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 15 January 2025. 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, 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 Navy and began a period of active duty on 6 December 1990. On 12 November 1990, you received administrative remarks (Page 13) counseling retaining you in service despite defective enlistment and induction due to fraudulent entry into naval service as evidenced by your failure to disclose your preservice civil involvement/drug use. On 20 February 1992, you received non-judicial punishment (NJP) for two specifications of failure to obey a lawful order, willfully damaging government property, assault, and communicating a threat. You were subsequently issued a counseling warning and advised that any further deficiencies in performance and or continued misconduct may result in disciplinary action and in processing for administrative discharge. On 13 August 1992, you received your second NJP for being disrespectful in language. Consequently, you were notified of administrative separation

from the Navy by reason of misconduct due to commission of a serious military offense. You elected to consult with counsel and an administrative discharge board (ADB). On 23 October 1992, an ADB convened in your case, found evidence of misconduct, and recommended you be separated with an Other Than Honorable (OTH) characterization of service. Your commanding officer concurred with the ADB and forwarded your separation package to the separation authority (SA). The SA approved the ADB recommendation, and you were so discharged on 20 November 1992.

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 to upgrade your discharge character of service and contentions that: (1) during your service in the U.S. Navy during Desert Storm, you struggled with anxiety and mental fatigue due to the imminent deployment and you regret your behavior, (2) with years of reflection and ongoing mental health support, you have grown significantly, (3) you respectfully request that your discharge status be upgraded to General; recognizing the growth you achieved, (4) the correction is warranted because you have made significant personal growth since your discharge, (5) over the years you sought professional counseling to address anger management stemming from self-doubt, low self-esteem, and feelings of inadequacy, and (6) you were unaware of this process until your son informed you. Additionally, the Board noted you checked the "PTSD" box on your application but chose not to provide supporting evidence of your claim. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

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 found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunity to correct your conduct deficiencies but chose to continue to commit misconduct, which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. While the Board carefully considered the evidence you submitted in mitigation, even in light of the Kurta, Hagel, and Wilkie Memos 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, _____

2/12/2025

