



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

[REDACTED]
Docket No. 10072-24

Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear Petitioner:

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your reconsideration application on 13 December 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).

You enlisted in the U.S. Navy and began a period of active duty service on 9 November 1989. On 7 August 1989, you signed an acknowledged the "Drug and Alcohol Abuse Statement of Understanding." On 8 August 1989, your enlistment physical examination and self-reported medical history both noted no psychiatric or neurologic issues, symptoms, history, or counseling. On your enlistment application you disclosed a public intoxication offense. On 22 February 1990, you reported for duty with the [REDACTED].

On 24 March 1990, you commenced an unauthorized absence (UA). While in a UA status, you missed the movement of your ship en route to [REDACTED]. Your UA terminated on

19 April 1990. On 11 May 1990 you received non-judicial punishment (NJP) for your UA and for missing movement. On the same day, your command issued you a "Page 13" retention warning (Page 13). The Page 13 advised you that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative separation.

However, on 26 May 1990, you commenced another UA and missed the movement of your ship. Your command declared you to be a deserter. Your UA terminated after twenty-eight (28) days with your surrender to military authorities on board ██████████. On 6 July 1990, you received NJP for your 28-day UA, missing movement, and breaking restriction. You did not appeal your NJP.

On 18 May 1991, you commenced a period of UA that terminated on 20 May 1991. On 29 May 1991, you received NJP for your UA. You did not appeal your UA.

On 23 July 1991, you commenced another UA that terminated on 24 July 1991. On 25 July 1991, you commenced yet another UA that terminated on 3 August 1991. On 13 August 1991, you received NJP for UA.

On 23 September 1991, you commenced inpatient alcohol rehabilitation treatment ("Rehab") in ██████████. On 22 October 1991, you were terminated from your Rehab. The Rehab treatment records noted the following:

Initially, SNM identified himself as an alcoholic. His participation in daily group counseling sessions was minimal. He refused to make a commitment to sobriety and stated that he intended to continue drinking alcoholic beverages. He was terminated from treatment 22 October 1991. He developed a list of alternative activities, but refused to implement them outside of the treatment setting.

-His progress in treatment was poor and his prognosis is poor.

-FINAL DIAGNOSIS: Alcohol Dependence.

-Recommended: urine drug screen per week for 2 months, AA meetings 4x week.
DAPA/CAAC counseling 1x week.

On 7 November 1991, your command notified you of administrative separation proceedings by reason of misconduct due to a pattern of misconduct, and for being an alcohol abuse rehabilitation failure. On 8 November 1991, you waived in writing your rights to consult with counsel, to submit written statements, and to request an administrative separation board. You did not object to your separation.

On 13 November 1991, your separation physical examination and self-reported medical history both noted no psychiatric or neurologic issues, symptoms, history, or counseling. Ultimately, on 25 November 1991, you were separated from the Navy for misconduct with an under Other Than Honorable conditions (OTH) discharge characterization and were assigned an RE-4 reentry code.

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) you didn't do anything to be given an OTH, (b) you went to ██████████ to alcohol rehab for five weeks and three days of a 6-week program, (c) you were terminated because you wouldn't agree that an alcoholic isn't responsible for what he does – it's a disease; but you disagreed – you believe that are responsible for what they do, (d) you should received the Iraq Medal and an additional medal for your actions in Iran. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The simple fact remains is that you left the Navy while you were still contractually obligated to serve and you went into a UA status without any legal justification or excuse on no less than five (5) separate occasions for a total of approximately 66 days. The Board determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

The Board also determined the reason you contend you were terminated from Rehab was without merit and not persuasive. The Board noted that the record is clear you were terminated from Rehab because you refused to make a commitment to sobriety and stated you would continue to drink alcoholic beverages.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your cumulative misconduct and disregard for good order and discipline clearly merited your discharge. 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.

Regarding your request for awards, the Board determined you have not yet exhausted your administrative remedies by applying to Commander, Navy Personnel Command. Should you be denied relief, the Board encourages you to reapply to this Board with supporting evidence of your claim.

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,

1/8/2025

