



Docket No. 10084-24  
Ref: Signature Date

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 application on 29 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 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 Navy and began a period of active duty on 10 July 1991. On 2 November 1991, you reported to Pre-Commissioning Unit George Washington for duty. On 14 May 1992, you were convicted by a summary court-martial (SCM) of two specifications of unauthorized absence (UA) in violation of Article 86, Uniform Code of Military Justice (UCMJ), insubordinate conduct in violation of Article 91, UCMJ, failure to obey order or regulation in violation of Article 92, UCMJ, assault in violation of Article 128, UCMJ, and disobeying a general regulation in violation of Article 134, UCMJ. On 4 June 1992, you commenced a period of UA that subsequently concluded upon your surrender to military authorities on 18 June 1992; a period totaling 14 days.

On 3 November 1992, you reported to Helicopter Combat Support [REDACTED] for duty. On 2 February 1994, you were convicted by civilian authorities of the charge of carrying a concealed weapon. Of the charge of possession of marijuana, the court withheld findings for a period of

one year; to be dismissed if you were of good behavior and paid court costs. On 1 March 1994, you were convicted by civilian authorities of brandishing a firearm.

Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense, drug abuse, and civilian conviction. You were advised of your procedural rights, elected your right to consult with counsel, and waived your right to present your case to an administrative discharge board. The commanding officer forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy with an Other Than Honorable (OTH) characterization of service. The separation authority approved the recommendation and you were so discharged on 22 June 1994.

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 your contentions that: (1) you were discharged prior to having a court date to defend yourself against the alleged allegations, (2) you were discharged from the Navy, not because you were guilty, but because you were charged with a crime, (3) you did not receive justice and did not have a court-martial or captain's mast, (4) if you were able to explain the circumstances surrounding your arrest at a court-martial or captain's mast, you would not have been discharged, (5) you were not aware that you had the right to disagree or challenge a discussion with a Master Chief, (6) you believe that if you were able to receive counseling or mentorship your fate would have been different, (7) you were following the orders that were given to you concerning your discharge without proper education on how to challenge the process, and (8) you were away from home without support and being part of the military gave you a sense of pride. For purposes of clemency and equity consideration, the Board noted you submitted a personal statement and an arrest report but no supporting documentation describing post-service accomplishments or advocacy letters.

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 civilian convictions and SCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your misconduct showed a complete disregard for military authority and regulations. The Board also considered the discrediting nature of your civilian convictions. Additionally, the Board observed that 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. The Board found that your misconduct was intentional and made you unsuitable for continued naval service. Finally, the Board observed that you did not provide any evidence, other than your statement, to substantiate your contentions. However, the Board was not persuaded by your arguments that the result of your administrative separation processing would have differed had you been allowed to explain the circumstances of your civilian arrests. The Board noted that you were convicted in both of those cases for gun related offenses before you were processed for administrative separation.

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 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. 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 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,

2/24/2025

