



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. 10152-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 16 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. Naval Reserves and commenced a period of active duty for training on 26 March 1984. On 20 July 1984, you were released from active duty with an Honorable discharged following completion of training. On 24 July 1984, you commenced reserve duty.

Your Official Military Personnel File (OMPF) reflects you missed drills in September 1984, April 1985, September 1985, September 1986, July 1987, September 1987, and April 1988.

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Administrative remarks in your record document that, on 8 June 1988, you were discharged with an Other Than Honorable (OTH) characterization of service for unsatisfactory participation in the U. S. Naval Reserves.

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 change your discharge characterization of service and your reason for separation. You contend that, during your second period of reserve service, you worked as a long-haul trucker and were occasionally unable to deconflict your work schedule with your drills. You further contend it is in the interest of correcting an injustice that your record be corrected and that your compelling post-discharge record, notably your strong character and reputation, active community involvement, and job history, in addition to the length of time since your discharge, the non-violent nature of your misconduct, and the lack of availability of other remedies, warrants the relief you request. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application; including your legal brief with exhibits.

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 unsatisfactory participation in required drills, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and likely negative impact your repeated absences had on the good order and discipline of your command. Finally, the Board noted that you were given multiple opportunities to address your conduct issues—specifically, on each occasion you missed a drill you had the opportunity to correct your error in subsequent drill periods—but you continued to miss drills; which ultimately led to your unfavorable discharge.

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. While the Board carefully considered the evidence you provided in mitigation and commends you on your post-discharge good character, 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 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,

1/14/2025

