



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

[REDACTED]
Docket No. 10791-24
Ref: Signature Date

[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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 10 February 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, 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).

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.

According to your application, you enlisted in the Navy and commenced active duty in October 1991 and were administratively discharged for misconduct with an Other Than Honorable characterization of service on 28 June 1994. Unfortunately, your DD Form 214 and 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.

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 characterization of service and your contentions that it was not your intention to commit larceny, you did not receive effective

assistance of counsel from your Navy lawyer at the time of your discharge, and, since your discharge, you have become a successful business owner, husband, father, foster parent, and missionary. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application, including congressional correspondence, your personal statement, your advocacy letters, and your foster home license.

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 administrative separation in lieu of trial by court-martial for larceny of government property¹, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it involved theft and placed your shipmate at risk by stowing stolen government property in his home. The Board determined such conduct indicates a lack of trustworthiness and concern, not only for your command, and the Navy at large, but for the American taxpayer. The Board further opined, it was not convinced by your narrative that you, as your shop's Supply Petty Officer and Junior Sailor of the Quarter, at any time thought it was acceptable or legal to store government supplies in a private home. Further, the Board was not persuaded by your contention that you were denied due process through the ineffective assistance of your counsel. The Board noted you provide no evidence, other than your statement, to substantiate your contention. Therefore, the Board determined the presumption of regularity applies in your case.

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 and commends your post-discharge accomplishments, 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,

3/12/2025
[REDACTED]

¹ The Board derived the basis of your separation from your personal statement.