



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

██████████  
Docket No. 10862-24  
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 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 Navy and commenced a period of active duty on 18 December 1990. At the time of your entry, you failed to disclose all of your preservice civil misconduct, including drug abuse. On 19 December 1990, you were counseled on your fraudulent enlistment based on your failure to disclose your preservice misconduct. You were notified further misconduct may result in the initiations of administrative separation proceedings. On 17 April 1991, you were found to have an outstanding bench warrant for failure to appear in court for misdemeanor theft and trespassing. On 29 April 1991, you were counseled on your continued misconduct as reflected in three instances of unauthorized absence (UA). On 30 May 1991, you received non-judicial punishment (NJP) for UA. That same day, you were again warned that further misconduct may result in the initiations of administrative separation proceedings. Subsequently, on 10 June 1991, you were notified on the initiation of administrative separation proceedings by reason of defective enlistment and induction due to fraudulent entry into naval service; at which point you waived your procedural rights. Ultimately, the separation authority approved and directed your discharge with an uncharacterized entry level separation. You were so discharged on 14 June 1991.

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 to

Honorable to qualify for veterans' benefits. You contend that you were picked-on while in [REDACTED], [REDACTED], on three separate occasions and have a scar on your face from one of the incidents.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your uncharacterized entry level separation remains appropriate. Service regulations direct the assignment of an uncharacterized entry level separation for members who are processed for separation within their first 180 days of active duty. While there are exceptions to policy in cases involving extraordinary performance or misconduct<sup>1</sup>, the Board determined neither applied in your case. Further, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Finally, the Board noted you provided no evidence, other than your statement, to substantiate your contentions. Therefore, the Board concluded you were properly processed for fraudulently enlisting due to intentionally failing to disclose your preservice misconduct; despite several counseling warnings to do so.

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. 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.

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,

1/13/2025

<sup>1</sup> The Board noted you were subject to NJP for a one-day period of UA. Therefore, your NJP did not qualify for administrative separation processing by itself. While the Board also noted you could have been processed for misconduct in conjunction with your earlier periods of UA, they determined your Command granted you a measure of clemency by processing you for an entry level separation vice a pattern of misconduct.