



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

██████████  
Docket No. 278-25  
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel of the Board, sitting in executive session on 29 July 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 previously applied to this Board for a discharge upgrade and were denied on 31 May 1996 and on 12 February 1997. You also were denied for reconsideration on four additional occasions due to lack of new evidence<sup>1</sup>. The summary of your service remains substantially unchanged from that addressed in the Board's previous decisions.

Specifically, the Board observed after your release from active duty for training in the U.S. Army on 4 December 1976, you were returned to the Army Reserve to complete the remaining service obligation of five years, six months and nineteen days. The Board further observed you tried to enlist in the U.S. Navy, on 28 January 1977, but were later released from the delayed entry program (DEP). On 5 October 1989, you began the enlistment process into the U.S. Navy. During this enlistment process, you acknowledged that you were in Navy DEP, in March 1977,

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<sup>1</sup> Your record also contains multiple letters to your congressional representatives explaining the basis for your denials.

but changed your mind to go active at a later time for personal reasons. The Board noted you began active duty in the U.S. Navy on 14 November 1989 and were later discharged with an Other Than Honorable (OTH) characterization pursuant to your request to avoid a trial by court-martial for a 299 day period of unauthorized absence<sup>2</sup>.

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 back pay and restoration of your rate, rank, and all benefits from 1974 to final discharge date. You contend that your entire service record is a lie, you were found medically unfit for duty, and that all charges are false. You further contend you are 100% mental and physically disable as defined by social security. You finally contend that your enlistment December 1994 to May 2006 should supersede the December 1994 discharge which is uncharacterized and should be upgraded to medical. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the evidence you provided in support of it.

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 non-judicial punishment, long-term unauthorized absence, and request for separation in lieu of trial by court-martial, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. The Board observed 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 also noted that the misconduct that led to your request to be discharged in lieu of trial by court-martial was substantial and determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial; thereby sparing you the stigma of a court-martial conviction and possible punitive discharge. Finally, the Board was not persuaded by your contention that your record was falsified and noted you provided no evidence, other than your statement, to substantiate your allegation. 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<sup>3</sup>. 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 that your request does not merit relief.

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<sup>2</sup> As discussed in your previous Board decisions, you were also the subject of non-judicial punishment for three instances of unauthorized absence, disrespect toward a commissioned officer, and failing to obey a lawful order.

<sup>3</sup> In making this finding, the Board also concluded that there was no basis to grant your other requests for 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

8/1/2025

