



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

██████████  
Docket No. 371-25  
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 7 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 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. Navy and began a period of active duty service on 28 August 1989. Your pre-enlistment physical examination on, 11 August 1989, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms.

On 21 August 1990, you received non-judicial punishment (NJP) for unauthorized absence (UA). You did not appeal your NJP. On the same day, your command issued you a "Page 13" that stated your military behavior needed a substantial improvement. The Page 13 advised you that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative separation. You did not submit a Page 13 rebuttal statement.

On 23 January 1991, you received NJP for two separate UA specifications and two separate specifications of failing to obey a lawful order. You did not appeal your NJP. On the same day,

your command issued you a Page 13 advising you that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative separation. You did not submit a Page 13 rebuttal statement.

On 11 February 1991, you were disenrolled as an academic failure from the submarine "ET" training pipeline. Following your disenrollment, you were made available for the surface warfare "ET" "A" school.

On 11 July 1991, pursuant to your guilty plea, you were convicted of resisting arrest while stationed at Service School Command, ██████████. Your civilian conviction was adjudicated by the Circuit Court of the 19th Judicial Circuit, ██████████. You were sentenced to pay a fine and court costs, twelve months of court supervision, and ordered not to have any violent contact with the victim.

On 5 March 1992, you received NJP for failing to obey a lawful order. You did not appeal your NJP. On the same day your command issued you a Page 13 advising you that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative separation. You did not submit a Page 13 rebuttal statement.

On 10 August 1992, you reported for duty on board the ██████████ (██████████) in ██████████, ██████████. On 12 August 1992, your command issued you a Page 13 advising you that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative separation. You did not submit a Page 13 rebuttal statement.

On 15 October 1992, you commenced a period of UA. Your command declared you to be a deserter. While in a UA status, you missed the movement of your ship on 16 November 1992. Your UA terminated on 21 December 1992. On 22 December 1992, you received NJP for your 67-day UA and missing movement. You did not appeal your NJP.

On 5 March 1993, you received NJP for UA. You did not appeal your NJP. On 15 March 1993, you received NJP for the wrongful use of a controlled substance. You did not appeal your NJP.

On 16 March 1993, your command notified you of administrative separation proceedings by reason of misconduct due to drug abuse and commission of a serious offense. You waived in writing your rights to consult with counsel, submit statements, and to request an administrative separation board.

On 30 March 1993, the Separation Authority approved and directed your separation for misconduct due to the commission of a serious offense with an under Other Than Honorable conditions (OTH) discharge characterization. Ultimately, on 2 April 1993, you were separated from the Navy for misconduct with an OTH discharge characterization and were assigned an RE-4 reentry code.

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 a discharge upgrade and contentions that: (a)

you are seeking a correction so you can receive veterans benefits including a VHA loan and schooling, (b) your command overreached to punish you, (c) in your record you not find a serious offense committed by you, nor arrest or confinement, (d) you never committed a serious offense, (e) you were never offered help for your substance abuse, (f) all of your offenses were punished by NJP, nothing criminal, (g) you were dumbfounded when you finally discovered the serious offense, and (h) you feel that your punishments were reprisals/retaliation. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application, which consisted solely of the information you provided on your DD Form 149 without any other supporting documentation.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that illegal drug use is contrary to Navy core values and policy, renders such service members unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The Board also noted that you left the Navy while you were still contractually obligated to serve and you went into a UA status without any legal justification or excuse for a staggering 67 days. The Board determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

The Board noted that you did not provide any credible evidence to corroborate or substantiate your contentions. The Board also noted that a serious offense is not a subjective concept. A serious offense for the purposes of an administrative separation is one that could receive a punitive discharge at a court-martial. You committed multiple serious offenses under the Uniform Code of Military Justice, namely: (a) your 67-day UA, (b) missing ship's movement, (c) failing to obey a lawful order, and (d) the wrongful use of a controlled substance. Each such offense, individually and/or collectively, could have resulted in a punitive discharge at a court-martial; thus meeting the definition of a serious offense.

The Board observed that character of military service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your overall active duty trait average calculated from your available performance evaluations during your enlistment was approximately 2.6 in conduct. Navy regulations in place at the time of your discharge recommended a minimum trait average of 3.0 in conduct (proper military behavior), for a fully Honorable characterization of service. The Board concluded that your conduct marks during your active duty career were a direct result of your substandard performance of duty and cumulative misconduct which further justified your OTH discharge characterization.

The Board determined that there was no impropriety or inequity in your discharge and concluded that your cumulative misconduct and disregard for good order and discipline clearly merited

your discharge. 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.

The Board determined there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC § 1034. 10 USC § 1034 provides the right to request Secretary of Defense review of cases with substantiated reprisal allegations where the Secretary of the Navy's follow-on corrective or disciplinary actions are at issue. Additionally, in accordance with DoD policy you have the right to request review of the Secretary of the Navy's decision regardless of whether your reprisal allegation was substantiated or non-substantiated. Your written request must show by clear and convincing evidence that the Secretary of the Navy acted arbitrarily, capriciously, or contrary to law. This is not a de novo review and under 10 USC § 1034(c) the Secretary of Defense cannot review issues that do not involve reprisal. You must file within 90 days of receipt of this letter to the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Office of Legal Policy, 4000 Defense Pentagon, Washington, DC 20301-4000. Your written request must contain your full name, grade/rank, duty status, duty title, organization, duty location, mailing address, and telephone number; a copy of your BCNR application and final decisional documents; and a statement of the specific reasons why you are not satisfied with this decision and the specific remedy or relief requested. Your request must be based on factual allegations or evidence previously presented to the BCNR; therefore, please also include previously presented documentation that supports your statements.

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,

2/27/2025

