



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. 0818-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 9 June 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, 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy and began a period of active duty on 3 October 1989. Prior to coming on active duty, you admitted preservice arrest, charges, and use of a controlled substance-marijuana. On 19 January 1992, the General District Court of █ issued a warrant for your arrest for the following appearing in public intoxicated, behaving in disorderly manner with the intent to cause public inconvenience, annoyance, or alarm, knowingly obstructing a law enforcement officer in the performance of his duties, and robbery by force, a neckless of value of \$50.00. Consequently, you were placed under civilian custody and a bond

was set at \$1350.00. On 20 January 1992, you were charged with a period of unauthorized absence (UA) and turned over to military authorities.

On 23 January 1992, you received nonjudicial punishment (NJP) for failure to obey a lawful order and uttering a worthless check. Subsequently, you were counseled concerning your failure to maintain a correct recall phone number and failure to make required periodic status calls. You were advised that failure to take corrective action could result in administrative separation. On 14 May 1992, you were convicted by the District Court of █ for obstructing a law enforcement officer in the performance of his duties. You were sentenced to a fine, a period of probation, alcohol education and treatment, and restrictions. On the same date, you were counseled concerning a letter of indebtedness from NEX in the amount of \$110.00. You were advised that failure to take corrective action could result in administrative separation. On 29 May 1992, you received a second NJP for failure to obey a lawful order.

On 5 July 1992, you began a second period of UA which lasted 249 days. Upon your return, on 19 March 1993, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct and commission of a serious offense. Subsequently, you decided to waive your procedural rights and your commanding officer recommended you be discharged with an Other Than Honorable (OTH) discharge characterization of service. The separation authority approved the recommendation by reason of misconduct due to commission of a serious offense and you were so discharged on 27 July 1993. During your administrative separation processing, between 6 June 1993 and 17 June 1993, you had two periods of UA totaling one-day, two hours and 30 minutes. This resulted in your third NJP on 30 June 1993.

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 were a 26 year old man who made numerous mistakes once your mother got sick, (b) your mother's situation sent you into a tailspin causing you to not represent yourself and the Navy accordingly, (c) you were allowed the opportunity to complete your enlistment and have since turned your life around as a fully license electrician. Additionally, the Board noted you checked the "Other Mental Health" box on your application but chose not to provide supporting evidence of your claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 without any other additional documentation.

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 NJPs and multiple periods of UA, 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 multiple opportunities 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. Additionally, contrary to your contentions, the Board noted you

were not allowed to complete your enlistment, and you continued to commit misconduct even as you were being considered for administrative separation. Finally, the Board considered that you provided no evidence, other than your statement, to substantiate your contentions.

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. 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 the 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,

6/27/2025

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Executive Director

Signed by: █