



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. 1562-25
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.

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 23 May 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.

You enlisted in the Naval Reserves and commenced a period of active duty on 24 November 1982. After a period of continuous Honorable service, you immediately reenlisted on 28 August 1985. On 4 January 1989, you received a civil conviction in ██████████, for worthless checks. You were sentenced to 45 days of probation and ordered to pay \$95.75 in court fees and a \$20.00 state fee. On 6 February 1990, you received non-judicial punishment (NJP) for unauthorized absence (UA) from 8 December 1989 until 8 January 1990 and missing ship's movement through design.

Unfortunately, the 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. Based on the information contained on your Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated, on 27 September 1990, with an "Under Other Than Honorable Conditions (OTH)" characterization of service, narrative reason for separation of "Misconduct – Commission of a Serious Offense," reentry code of "RE-4," and separation code of "HKQ;" which corresponds to misconduct – commission of a serious offense.

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 to qualify for veterans' benefits and your contentions that you were struggling to raise two young boys due to personal issues with your spouse and ended up leaving without authorization to take your boys to your parents in ██████████. You further contended these events occurred 30 years ago and, although you are ashamed of your past conduct, you have been a good father and improved your life post-discharge. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your petition and personal statement without any 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 civilian conviction and NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the impact your decision and absence likely had on the good order and discipline of your command. The Board also concluded, without additional evidence such as advocacy letters or other documentation to support your post-service conduct and accomplishments, the Board was unable to grant your request as a matter of clemency. Finally, 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.

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. Although the Board sympathized with your family situation while in service, 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,

6/12/2025

