



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

Docket No. 2736-25
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 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).

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 Navy Reserve and commenced initial active duty for training (IADT) on 20 May 1985. As part of your enlistment, you signed a statement of understanding requiring you to attend forty-eight scheduled drills and no less than fourteen days of active duty for training (ADT) per year after completing IADT. On 22 August 1985, you received non-judicial punishment (NJP) for failure to obey a lawful order from a Lieutenant. You completed IADT on 5 September 1985 and were transferred to your reserve unit.

Unfortunately, the documents pertinent to your administrative separation proceedings 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 in your service record, you were separated, on 31 January 1989, with an "Under Other Than Honorable Conditions" (OTH) characterization of service, narrative reason for separation of "Convenience of the Government due to Unsatisfactory Participation in the Naval Reserve," and a reentry code of "RE-4."

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 discharge characterization of service and your contentions that your court-martial and discharge were excessive punishment for disobeying orders to attend a mandatory study session, you had exemplary performance and no misconduct prior to this offense and have had a twenty-five-year career and a family since your discharge. 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 your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your separation for unsatisfactory participation in the Naval Reserve, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your conduct had on the good order and discipline of your command. The Board noted that you were not court-martialed or discharged for your failure to obey a lawful order in 1985. As explained previously, you received NJP and went on to complete your IADT and transfer to your reserve unit. The Board observed that your discharge reason, three-and-a-half years later, was for unsatisfactory participation in the reserves; which is typically established by a pattern of unauthorized absence (UA) from drills, ADT, or required medical exams. Absent substantial evidence to the contrary, the Board determined the presumption of regularity applies to your discharge.

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 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,

7/21/2025

