



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

Docket No. 3096-25
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 15 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 enlisted in the Navy and began a period of active duty on 5 October 1989. On 20 January 1990, you reported to [REDACTED] for duty. On 29 June 1990, you received non-judicial punishment (NJP) for a period of unauthorized absence (UA) totaling 18 days and missing ship's movement through design. On 19 September 1990, you received your second NJP for larceny of \$160 from another Sailor. On 20 September 1990, you were issued an administrative remarks (Page 13) retention warning counseling concerning your deficiencies in your performance and conduct as evident by your NJPs. You were provided with recommendations for corrective action and advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative separation. On 19 December 1990, you received your third NJP for disrespect towards a commissioned officer, two specifications of disrespect, and dereliction of duty. On 26 June 1992, you received your fourth NJP for provoking speeches and gestures.

Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to pattern of misconduct and commission of a serious offense. You were informed that the least favorable characterization of service you may receive is Under Other Than Honorable (OTH) conditions. You waived your right to consult with counsel and to present your case to an administrative discharge board. The commanding officer (CO) forwarded your administrative separation package to the separation authority recommending your administrative discharge from the Navy. As part of the CO's recommendation, he stated in pertinent part:

[Petitioner] is a repeated offender of the uniform code of military justice and an administrative burden to the U.S. Navy. He blatantly disregards military regulations and policy and continually demonstrates a disrespectful deportment towards seniors. He has been afforded every reasonable opportunity to correct his deficiencies but does not demonstrate the desire to do so. His in rate performance has been fair when beneficial to him. However, it is overshadowed by his disregard for Navy policy and numerous infractions of the UCMJ. His conduct undermines the good order and discipline of this command. He should be administratively separated immediately with a characterization of Other Than Honorable.

The separation authority approved the recommendation and you were so discharged on 3 September 1992.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB denied your request for an upgrade on 20 March 1995, based on their determination that your discharge was proper as issued.

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 character of service and change your reason for separation. You contend that: (1) case law has concluded that a military discharge on OTH grounds is punitive in nature, it stigmatizes your reputation, and impedes your ability to gain employment, (2) you experienced mental challenges, (3) you were experiencing a mental crisis and sought assistance from your chain of command for a request to go home and seek the therapy you needed, (4) based on the unfair treatment you received, a reconsideration of your current military discharge is warranted, (5) at the time of your military service you were dealing with major setbacks in your life, (6) during your time of service, the Navy was not a place where you could seek assistance for depression or any mental issues that you were experiencing, (7) you could not shake off the mental issues that you were experiencing, and (8) you were never told that you had rights or that there was an appeal process in place. 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 your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evident by your administrative counseling and NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your

misconduct 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. The Board determined the record reflected that your misconduct was intentional, willful, and persistent, and demonstrated you were unfit for further service. Furthermore, the Board also determined that the evidence of record did not demonstrate that you were not responsible for your conduct or that you should otherwise not be held accountable for your actions. Finally, the Board found your record of misconduct was sufficient to support your administrative separation, assigned characterization of service, separation code, and reenlistment code.

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. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge rehabilitation, 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 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,

7/25/2025

