



Docket No. 4552-25
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 9 September 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 18 January 1982. After a period of continuous Honorable service that included two enlistment periods, you immediately reenlisted and commenced a final period of active duty on 18 October 1991. On 9 June 1992, you were arrested by civilian authorities and charged with one count of first degree sexual assault on a child, two counts of third degree sexual assault on a child, and three counts of risk of injury to a minor. Ultimately, you were convicted by civilian authorities of second degree sexual assault and risk of injury to a minor.

Consequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of misconduct due to commission of a serious offense and civilian conviction. 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] has displayed the character of service which warrants discharge. [Petitioner's] misconduct is unacceptable, and he is not fit for further naval service. I strongly recommend separation of [Petitioner] from the naval service by reason of misconduct due to civil conviction and misconduct due to commission of a serious offense, and that his discharge be characterized as Other Than Honorable.

The separation authority approved the recommendation and you were so discharged in absentia on 26 April 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 to upgrade your discharge character of service and your contentions that you maintained yourself despite your criminal proceedings and you had two prior enlistments with an Honorable discharge. You also checked the "PTSD" box on your application but did not respond to the Board's request for evidence in support of this claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and forwarding letter from your veterans' representative 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 evident by your civilian conviction, 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 also considered the negative impact your conduct likely had on the good order and discipline of your command and the discrediting nature of your civilian conviction. Further, the Board found that your misconduct was intentional and made you unsuitable for continued naval 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 noted that, although one's service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization. There is no precedent within this Board's review, for minimizing the "one-time" isolated incident. As with each case before the Board, the seriousness of a single act must be judged on its own merit, it can neither be excused nor extenuated solely on its isolation. Therefore, after the application of the standards and principles contained in the Wilkie Memo, the Board found that your service fell well below the minimum standards for a General (Under Honorable Conditions) or Honorable characterization of service.

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 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,

9/29/2025

