



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

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Docket No. 5107-25
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 1 December 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 16 May 1988. Between 26 October 1988 and 8 December 1988, you were counseled on four occasions for two instances of failure to do the assigned homework, failure to maintain your belongings in a neat and orderly manner, sleeping in class, disobeying orders, and unauthorized absence (UA) from appointed place of duty. On 5 January 1989, you received nonjudicial punishment (NJP) for three instances of failure to obey a lawful order. You were counseled concerning your previous UCMJ infractions and advised that failure to take corrective action could result in administrative separation. Between 18 January 1989 and 24 January 1989, you began two periods of UA

totaling one hour and 20 minutes. On 8 February 1989, you received a second NJP for two periods of UA. Consequently, previously suspended parts of your NJP imposed on 5 January 1989 were vacated.

On 18 February 1989, you were counseled concerning your failure to report to appointed place of duty and advised that failure to take corrective action could result in administrative separation. On 18 September 1989, you began a period of UA which lasted four hours and 35 minutes. On 27 September 1989, you received a third NJP for failure to obey a lawful order and a period of UA. Between 27 September 1989 and 5 October 1989, you were counseled concerning your failure to obey orders, periods of UA, and your voluntarily self-referral for alcohol rehabilitation. You were advised that failure to take corrective action could result in administrative separation. On 6 October 1989, you received a fourth NJP for making false official statements and failure to obey a lawful order. Between 17 October 1989 and 14 November 1989, you were counseled on three occasions for a period of UA, academic failure, and failure to obey lawful orders.

Consequently, 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. You decided to consult with counsel and requested a case hearing by an Administrative Discharge Board (ADB). On 27 February 1990, the ADB voted (3) to (0) to find that you committed misconduct due to pattern of misconduct and commission of a serious offense and recommended you be discharged with a General (Under Honorable Conditions) (GEN) characterization of service. Your commanding officer concurred with the recommendation and, ultimately, you were so discharged by reason of misconduct due to pattern of misconduct on 16 March 1990.

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 characterization upgrade and contentions that: (a) the Department of Veterans Affairs has determined that you have a service connected conditions (Sleep Apnea), which was diagnosed during military service, (b) you believe your incidents of misconduct, such as falling to sleep and missing musters, were symptoms of that condition, (c) your discharge characterization does not reflect the true circumstances leading to your separation, (d) your were not able to complete your sleep study prior to the administrative hearing due to faulty equipment, and (e) your counselor emphasized that your infractions, while repeated, were minor in nature. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and the evidence you provided in support of your application.

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 counselings, 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 GEN 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. Further, the Board was not persuaded by your arguments regarding

your sleep apnea and noted that your misconduct included multiple incidents that bear no nexus to a sleeping disorder; specifically, misconduct such as orders violations and false official statements.

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, 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 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,

1/6/2026

