



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

[REDACTED]  
Docket No. 5242-25  
Ref: Signature Date

[REDACTED]  
[REDACTED]  
[REDACTED]

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 25 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 26 January 1984. On 2 November 1985, you received nonjudicial punishment (NJP) for a violation of Article 86 of the Uniform Code of Military Justice (UCMJ) for an absence without leave. On 7 November 1985, you received emergency medical care after falling down several stairs and hitting your head. Although you incurred an abrasion of approximately one centimeter on your forehead, you denied loss of consciousness and were described in the medical note as being alert and oriented. From 13 November 1985 to 15 November 1985, you absented yourself without authority while in a restricted status from your earlier NJP punishment. You were subsequently issued administrative counseling warnings that you were being retained but that further misconduct could result in administrative discharge. On 13 December 1985, you received a second NJP for numerous UCMJ violations, that included two specifications under Article 92, for failure to obey an order or regulation, Article 134, for breaking restriction by patronizing the enlisted club in spite of being on restriction, Article 128, for assault, after you engaged in a fight while in the enlisted club, Article 95, for resistance or breach of arrest after escaping the custody of the interrogating officer after being arrested following your fight in the enlisted club, and Article

105, for a false official statement. At that time, your ordinance handling was revoked due to unreliability based on your frequent involvement with military authorities. Consequently, you were notified of processing for administrative separation by reason of misconduct due to commission of a serious offense. You elected to waive your right to a hearing before an administrative board and your commanding officer recommended your discharge with an Other Than Honorable (OTH) characterization of service. Your separation was approved as recommended by the separation authority and you were so discharged on 10 January 1986.

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 and your contentions that you need your discharge upgraded in order to obtain a service-connected disability for traumatic brain injury (TBI) from the Department of Veterans Affairs (VA). You state that you are currently homeless but cannot be accepted into government assisted housing due to your discharge; which the VA told you is “dishonorable” for their purposes<sup>1</sup>. You also checked the “TBI” box on your application but you did not submit any supporting documentation regarding this contention<sup>2</sup>. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 and DD Form 214.

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, 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 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. Further, the Board noted you provided no evidence, other than your statement, to substantiate your contentions. Regardless, 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. 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 the 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 is attached to all official records. Consequently, when

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<sup>1</sup> To the extent that the VA has identified your discharge as “dishonorable,” the Board noted that the VA classifies discharges according to its own purposes, distinct from the terminology or purpose of the military departments.

<sup>2</sup> However, as previously discussed, the Board noted that your service health records included a minor scalp abrasion with no loss of consciousness and no apparent medical follow-up required.

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,

8/12/2025

