



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

██████████
Docket No. 7304-25
Ref: Signature Date

████████████████████
████████████████████
████████████████████
████████████████████
████████████████████

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 9 March 2026. 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 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 following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

1. You enlisted in the Navy and began a period of active duty on 1 June 1978.
2. On 9 August 1979, you received nonjudicial punishment (NJP) for possession of marijuana in violation of Article 112a of the Uniform Code of Military Justice (UCMJ). Your punishment consisted of 30 days of restriction and extra duty and forfeiture of \$150.00 per month for one month.
3. On 3 December 1979, you were convicted in the Superior Court of ██████████ of committing lewd and lascivious acts upon a child under the age of 14 and were sentenced to five years of probation.

4. On 9 April 1981, you subject to a second NJP for a 52-day period of unauthorized absence in violation of Article 86, USMC, which terminated upon your apprehension. However, your punishment consisted only of an oral admonition.

5. Between 8 July 1982 and 12 January 1984, you voluntarily extended your enlistment on three occasions for a total of 43 months. Your last extension on 12 January 1984 was for 25 months.

6. On 11 June 1984, you were arrested and incarcerated by civilian authorities for charges of child molestation involving your four-year old step-daughter.

7. On 21 September 1984, you were convicted in the Superior Court of ██████████ of committing lewd and lascivious acts upon a child under the age of 14 and failing to register as a previously convicted felon. You were sentenced to eight years of confinement in the ██████████ state prison system, a fine of \$1,000.00, and an additional five-year term imposed aggravative due to a prior felony conviction.

8. Consequently, you were notified of administrative separation processing for civilian conviction. After you failed to return your acknowledgement of rights, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service by reason of conviction by a civil. On 12 March 1985, you were so discharged in absentia.

9. Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for an upgrade of your characterization of service and change to your narrative reason for separation. On 20 July 1992, the NDRB denied your request for an upgrade based on their determination that your discharge was proper as issued.

In your application to this Board, you express a desire for your discharge character of service be upgraded and contend that:

1. You are seeking an upgrade in the interests of justice since you served two enlistment terms and served your first term honorably.

2. You served honorably up until your separation from the Navy.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately processed for administrative separation based on your second civil conviction. While the Board carefully considered your contention of mitigation, the Board noted you did not deny the civil conviction that formed the basis of your administrative separation and OTH discharge. Therefore, the Board determined the presumption of regularity applies to your administrative separation and no error exists with your record.

The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your desire for an upgrade to your characterization of service, your contentions of injustice based on your claim of a period of previous Honorable

service, the totality of your service, the negative effect your discharge has had on your life, your rehabilitation efforts exhibited by your prison certificate of achievement and attendance, your prison work supervisor report of your performance, your advanced age, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, your child molestation misconduct that resulted in your civil conviction and 13 year prison sentence was deemed too serious to be mitigated by the evidence you provided. Further, the record does not support your assertion that you served two distinct terms of enlistment or that you received an Honorable discharge for an initial period of service. Rather, the record reflects that you were serving on an extension of your enlistment and did not receive a separate discharge prior to your separation from active duty. Regardless, the Board noted you were convicted by a civil court prior to your extension for lewd and lascivious acts upon a child under the age of 14. Therefore, the Board was not persuaded an injustice exists in your record based on prior Honorable service. The Board found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunity 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 and be significantly discrediting to the Navy. While the Board commends you for your rehabilitation efforts in prison and acknowledged the length of time since your discharge, 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 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 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,

3/24/2026

