



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

█  
Docket No. 8427-25  
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your reconsideration application on 23 January 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 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 previously applied to this Board for a discharge upgrade and were denied on 3 June 2019. You had contended, in part, that: (a) you made a bad error in judgment and there was a miscommunication with your counsel when you requested a separation in lieu of trial by court-martial, and (b) you did not understand the ramifications of your decisions.

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 originally enlisted in the U.S. Navy and began a period of active duty service on 17 July 1990. Your pre-enlistment physical examination, on 22 February 1990, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms.

2. After a period of continuous Honorable service, you immediately reenlisted for six years on 18 March 1994.

3. On 24 June 1994, your command issued you a "Page 13" warning (Page 13) documenting an unauthorized absence due to you consuming too much alcohol. Your command required you to take the following corrective action: (a) successfully complete the Command Level I treatment program until Level II treatment facilities become available, (b) successfully complete Level II treatment to include one (1) year of Aftercare, and (c) to have no further alcohol-induced or drug-related incidents. The Page 13 advised you that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for separation.

4. On 25 February 1998, you submitted a voluntary written request for an administrative discharge under other than honorable conditions (OTH) in lieu of a trial by court-martial for: (a) two separate specifications of making a false official statement, and (b) the larceny of approximately \$10,383.21, the military property of the United States. Prior to submitting this voluntary discharge request you conferred with a qualified military lawyer, at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. You acknowledged your guilt as to certain offenses underlying your request, and you acknowledged that if your request was approved that your discharge characterization may in fact be with an OTH discharge characterization. As a result of this course of action, you were spared the stigma of a court-martial conviction for your multiple offenses, as well as the potential sentence of confinement and the negative ramifications of likely receiving a punitive discharge.

5. In the interim, your command disqualified you from submarine duty prior to separation and removed the enlisted submarine designator from your service record. Ultimately, on 22 April 1998, you were separated from the Navy with an OTH discharge characterization and assigned an RE-4 reentry code.

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 record of misconduct. While the Board carefully considered your contention for mitigation, it noted that you did not deny committing the misconduct. Therefore, the Board determined the presumption of regularity applies to the finding that you committed the misconduct that formed the basis of your administrative separation and were properly separated with an OTH characterization of service.

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, the totality of your service, to include service highlights, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your post-service record of accomplishments, your service to your community, your remorse, the character reference you provided for review, 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, the Board found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given an opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH discharge. The Board also considered the likely negative effect your misconduct had on the good order and discipline of your unit. Further, the Board noted that the misconduct that led to your request to be discharged in lieu of trial by court-martial was substantial and determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial; thereby sparing you the stigma of a court-martial conviction and possible punitive discharge. Finally, the Board believed that it would be unjust to characterize your less than honorable service in the same manner as the service of the thousands of service members who, unlike you, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. Therefore, the Board did not find an upgrade of your discharge characterization or change to your reason for separation to be warranted in the interests of justice.

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,

1/28/2026

