



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

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Docket No. 9145-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 20 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 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).

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 U.S. Navy and began a period of active duty service on 19 November 1979. Your pre-enlistment physical examination, 28 July 1979, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms.
2. On 27 March 1980, you received non-judicial punishment (NJP) for unauthorized absence (UA) and failing to obey a lawful regulation. A portion of your punishment was suspended. You did not appeal your NJP.

3. On 16 April 1980, your command vacated the suspended portion of your March 1980 NJP due to your continuing misconduct. While still in your initial training pipeline, on the same day, you again received NJP, this time for dereliction in the performance of your duties. You did not appeal your NJP.

4. On 29 May 1980 you commenced a period of UA that terminated on 30 June 1980. On or about 3 July 1980, you reported for duty on board the ██████████. On 21 July 1980, you received NJP for your 32-day UA. You did not appeal your NJP.

5. On 4 March 1981, you received NJP for UA and for failing to obey a lawful order. You did not appeal your NJP.

6. On 31 March 1981, your command entered a "Page 13" warning (Page 13) into your service record. The Page 13 advised you that your military and personal conduct has been marginal, and further advised you that any more use of threats by word or gesture may result in you being immediately processed for administrative discharge by reason of either misconduct or unsuitability. You signed the Page 13, acknowledging that you read it in its entirety.

7. On 2 April 1981, your command entered another Page 13 into your service record. The Page 13 documented you being counseled concerning your deficiencies in military behavior as evidenced by your frequent misconduct of a discreditable nature with either civilian or military authorities – and that it may be grounds for administrative discharge under other than honorable conditions. You signed the Page 13 entry.

8. On 4 December 1981, you received NJP for: (a) insubordinate conduct, (b) willfully and wrongfully destroying property of the ██████████, and (c) burglary with the intent to commit larceny on 25 Nov 81. You did not appeal your NJP.

9. On 21 May 1982, you received NJP for UA. You did not appeal your NJP.

10. On 24 September 1982, you received NJP for disobeying a lawful order. You did not appeal your NJP.

11. On 5 March 1983, you received NJP for insubordinate conduct. You did not appeal your NJP.

12. Following your eighth NJP, on 8 March 1983, your command notified you of administrative separation proceedings by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. You waived your rights to consult with counsel and to request an administrative separation board. Ultimately, on 14 April 1983, you were separated from the Navy for a pattern of misconduct with an under Other Than Honorable conditions (OTH) discharge characterization and assigned an RE-4 reentry code.

In your application to this Board, you express a desire for your discharge character of service be upgraded and your reason for discharge be changed to Secretarial Authority. You contend that:

1. Your request is based upon theories of material error and injustice.
2. It was both an error and injustice that your service was cut short, labeled as OTH, and narrated as a pattern of misconduct.
3. Despite post-service success, such issues have turned to 40 years of you having to deal with service-connected conditions and the stigma of it all - which has been evermore harmful in recent years once you discovered your discharge was never upgraded and that you have no access to the benefits you earned and now need.
4. You were told a separation under a reduction in force would allow for an automatic discharge upgrade post-service.
5. After receiving Department of Veterans Affairs (VA) benefits for approximately 17 years post-service, the VA has denied you further access to benefits.
6. You are seeking closure and restoration of your good name.
7. Your command committed a material error of discretion and procedure by misapplying the regulation used to separate you.
8. Considering your work ethic, achievement, and contributions while serving the Navy, as well as your service to your family and community throughout your post-service life, you respectfully request the ability to be recognized as an honorable veteran.

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 of error, the Board noted you did not deny committing the misconduct that formed the basis of your administrative separation and OTH discharge. The Board further determined that you were formally counseled in writing no less than twice, and concluded that the Page 13 dated 2 April 1981 satisfied the MILPERSMAN procedural requirements and left no doubt that your established pattern of misconduct could be grounds for an OTH discharge. The Board also noted that included in your multiple NJPs were offenses that clearly met the MILPERSMAN threshold to additionally process you for misconduct due to the commission of a serious offense. 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, the totality of your service, your need for veterans' benefits, 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 rehabilitation efforts,

your post-service record of accomplishments, your service to your community, the evidence you provided in support of your application, your advanced age, the character references 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 noted that your service record was hallmarked and marred by multiple NJPs and two (2) Page 13 warnings. The Board concluded that your cumulative misconduct was not minor in nature and demonstrated a repeated failure to conform to basic military standards of good order and discipline, all of which continues to justify your OTH characterization. Further, 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. Therefore, even taking into consideration all the mitigation factors in your case, the Board found that your misconduct while on active duty outweighed the mitigation evidence offered. Additionally, the Board noted that VA eligibility determinations for health care, disability compensation, and other VA-administered benefits fall solely under the statutory authority of the VA. Therefore, the fact the VA determined you are no longer eligible for VA benefits was not persuasive mitigation evidence to the Board. Absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans or VA benefits, or enhancing educational or employment opportunities. Furthermore, the Board noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. The Board considered the length of time since your misconduct but also determined the severity of your misconduct outweighed any mitigation resulting from it. Finally, while the Board commends you for your post-service accomplishments, ultimately, the Board concluded the entirety of 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,

3/26/2026

