



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 2220

██████
Docket No. 9381-25
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 18 May 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), and the Under Secretary of Defense Memo of 20 September 2011 (Correction of Military Records Following Repeal of 10 U.S.C. 654).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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:

- You enlisted in the Navy and began a period of active duty on 26 November 1990. As part of your enlistment processing, you disclosed preservice offenses, including a speeding violation, fleeing a peace officer, driving while intoxicated (DWI), operating a vehicle without insurance, and prior marijuana use. Based on this information, you were granted an alcohol abuse

enlistment waiver. You also signed the Navy's Drug and Alcohol Abuse Statement of Understanding.

- On 27 November 1990, you were briefed on the Navy's Drug and Alcohol Abuse policy.
- On 10 December 1990, administrative remarks indicate you were interviewed by your commanding officer concerning your reported experimental or casual use of marijuana while in the Delayed Entry Program (DEP) and within 30 days prior to your active duty start date (ADSD), as well as a July 1986 incident involving driving without a helmet and without a driver's license.
- On 2 January 1992, you were convicted by ██████████, of disorderly intoxication, driving while your license was suspended, and resisting arrest without violence. You were ordered to pay court costs and did not appeal the conviction.
- On 24 March 1992, you were convicted by ██████████, of two counts of driving under the influence (DUI) and driving while your license was suspended. You were fined \$1,130.00, your driver's license was revoked for five years and six months, ordered to attend DUI school, perform 50 hours of community service, and serve 10 days in the county jail. You did not appeal this conviction.
- On 3 April 1992, you were notified that you were being recommended for administrative discharge from the Navy based on your two civilian convictions, at which time you waived your right to consult with counsel and to present your case to an administrative discharge board.
- Although a Drug and Alcohol Dependency Evaluation Worksheet indicated that you were psychologically dependent on alcohol and should be transferred to Alcohol Rehabilitation Center (ARC) Level III treatment, on 21 May 1992, you declined inpatient alcohol rehabilitation treatment.
- Ultimately, the separation authority directed you be discharged with an Other Than Honorable (OTH) characterization of service and you were so discharged on 9 June 1992.

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

- You served honorably in the Navy from 1990 until your discharge in 1992.
- Your discharge was related to your sexual orientation rather than poor performance of duty.
- The policies in effect at the time regarding homosexual service members required you to conceal your sexual orientation, which contributed to alcohol abuse and ultimately your OTH characterization of service.

- The demands associated with completing Aviation Electronics Technician training contributed to the stress and circumstances that led to your alcohol abuse.
- You successfully completed an alcohol treatment program in 2020, have abstained from alcohol since 2018, and respectfully request an upgrade to your characterization of service.

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 the documented bases reflected in your record. The Board noted you did not deny committing the misconduct that formed the basis for your administrative separation with an OTH discharge. Therefore, the Board determined the presumption of regularity applies to your OTH discharge 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 to include service highlights, your relative youth and immaturity at the time of your misconduct, the impact of DADT on you, 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 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 and brought discredit upon the naval service. 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. Further, 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. While the Board acknowledged your personal difficulties during your active service, ultimately, the Board concluded an upgrade of your discharge characterization of service is not warranted in the interests of justice.

Finally, since you raised the issue of DADT, the Board considered the aforementioned DADT repeal policy. The memo sets forth the Department of the Navy's current policies, standards, and procedures for correction of military records following the DADT repeal of 10 U.S.C. 654. It provides service Discharge Review Board with the guidance to normally grant requests to change the characterization of service to "Honorable," narrative reason for discharge to "Secretarial Authority," the separation code to "JFF1," and the reentry code to "RE-1J," when the original discharge was based solely on DADT or a similar policy in place prior to enactment of it and there are no aggravating factors in the record, such as misconduct. In applying the

policy to the facts of your case, the Board determined it was inapplicable since you were not separated for DADT and there are aggravating factors of misconduct in your record.

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 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,

6/10/2026

