



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

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Docket No. 222-26  
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 you did not file your application 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 26 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).

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 29 August 1983. After a period of continuous Honorable service, you immediately reenlisted and commenced another period of active duty on 18 May 1987.
2. On 28 December 1987, you began a period of unauthorized absence (UA) and remained absent until 10 January 1988. Your record does not document any punishment for this period of UA.
3. On 31 October 1988, you received nonjudicial punishment (NJP) for violating Uniform Code of Military Justice (UCMJ), Article 121 by attempting to steal a car stereo from the base exchange.

4. On 18 April 1990, you received a second NJP for violating UCMJ, Article 117 (wrongful use of provoking words to another person), Article 128 (unlawfully strike another person), and Article 134 (disorderly conduct). On 25 April 1990, you were counseled for deficiencies in performance as evidenced by your 18 April 1990 NJP.

5. On 21 May 1990, you began a period of UA and remained absent until 16 August 1990.

6. Based on the information in your record<sup>1</sup>, it appears that you submitted a voluntary written request for an Other Than Honorable (OTH) discharge for separation in lieu of trial (SILT) by court-martial. In the absence of evidence to contrary, it is presumed that prior to submitting this voluntary discharge request, you would have conferred with a qualified military lawyer, been advised of your rights, and warned of the probable adverse consequences of accepting such a discharge. As part of this discharge request, you would have acknowledged that your characterization of service upon discharge would be an OTH.

7. On 9 October 1990, you were discharged from the Navy for the basis of separation in lieu of trial by court martial, with an Other than Honorable (OTH) characterization of service, and a reentry code of RE-4.

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, the Board noted 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 for misconduct 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, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your remorse, your arguments that your discharge has been punitive and stigmatizing, the mitigation and extenuating circumstances you provided for your misconduct, 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 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

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<sup>1</sup> Administrative remarks entered in your record on 27 September 1990 indicate that no disciplinary action was taken for the period of UA because you were being processed for administrative discharge in lieu of trial by court martial. Additionally, your Certificate of Release or Discharge from Active Duty (DD Form 214) annotates that you were separated in lieu of trial by court-martial.

discipline of your command. The Board also was not persuaded by your argument that you have been punished and stigmatized as a result of your discharge characterization of service and deserve mitigation relief as a result. The Board considered 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. While the Board considered the length of time since your misconduct, they determined the severity of your misconduct outweighed any mitigation resulting from it. Further, the Board noted that a characterization of service is not an action taken to penalize you but rather an administrative summary and an accurate reflection of your service record. Ultimately, the Board concluded no injustice exists after weighing the Department of the Navy's interest in protecting the credibility of its personnel system, along with maintaining fairness to other service members who completed their service without misconduct, against the negative effects you continue to endure due to your less than honorable characterization of service. 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. In their opinion, it would also create an unwarranted and inaccurate assessment of your period of service that could potentially undermine the integrity of the Department of the Navy's personnel system. Therefore, the Board did not find an upgrade of your discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice. Based on the same rationale, the Board determined your reason for separation also remains appropriate.

Accordingly, given the totality of the circumstances, the Board determined 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,

2/18/2026

