



Docket No. 1876-26
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.

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 4 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).

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 25 January 1988.
- On 4 February 1991, you were found guilty by summary court-martial (SCM) of disrespect in language, disobeying a lawful order, and assault upon a sentinel and master-at-arms.
- On 6 May 1991, you received non-judicial punishment (NJP) for willful disobedience of a superior commissioned officer and were issued a retention warning.
- On 15 August 1991, you received NJP for unauthorized absence totally one day.

- On 19 September 1991, you received NJP for disrespectful language toward a petty officer and assault consummated by battery.

- Consequently, on that same day, you were notified of administrative separation proceedings due to misconduct by reason of a pattern of misconduct. You acknowledged the notification and waived your rights to counsel and to an administrative discharge board. Ultimately, on 10 October 1991, you were discharged from the Navy under Other Than Honorable (OTH) conditions by reason of misconduct due to a pattern of misconduct.

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

- Your discharge characterization is disproportionately severe when weighed against the totality of your naval service and your demonstrated remorse.

- That during one incident you were forcibly detained and inadvertently struck a petty officer while attempting to free yourself.

- As you age, you would like access to veterans' benefits for service connected disabilities.

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 considered your contention that your assault on a Petty Officer was inadvertent, it noted you provided no evidence, other than your statement, to substantiate your contention. Further, the Board considered that you did not appeal any of your NJPs or the SCM conviction. Finally, the Board noted you did not deny committing any of the other offenses that formed the basis for your administrative separation for pattern of misconduct. 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 need for veterans' benefits, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your health issues, 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 discipline of your command. Therefore, even taking into consideration all mitigation factors in your case, the Board concluded your misconduct while on active duty outweighed the mitigation evidence offered. Moreover, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Even though the Board considered your age and possible need for benefits to address your health concerns, they determined the severity of your misconduct outweighed any mitigation resulting from those factors. 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 early separation. Ultimately, the Board concluded an upgrade of your discharge characterization of service is not 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,

5/22/2026

