



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No: 0341-21
Ref: Signature Date



Dear █

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 19 March 2021. 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, 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 enlisted in the Navy and began a period of active duty on 22 October 1999. On 23 November 1999, you received a nonpunitive letter for unauthorized absence (UA), shorting of mandatory instructor assistance, failure to follow orders, and unsatisfactory completion of homework. On 4 Dec 1999, you began a second period of UA, which lasted two-days. On 6 December 1999, you signed a suspect's rights acknowledgment for UA, and failure to do your "M" hours, at which point, you decided to waive all your rights. On the same date, you began a third period of UA which lasted fifteen-days and resulted in your apprehension by civil authorities. On 19 December 1999, you were detained by civil authorities and charged with theft by shoplifting. On 20 December 1999, you signed a suspect's rights acknowledgement for UA, and decided to waive all your rights. On 21 December 1999, you signed a suspect's rights acknowledgment for two specifications of UA, and disobeying a lawful order. As a result, you requested to consult with a counsel. On 22 December 1999, you were placed in restrictions and

declined to be trial by court-martial. Subsequently, you signed a Captain's Mast accused acknowledgment of appeal rights. On the same date, you received nonjudicial punishment (NJP) for UA, and disobeying a lawful order. On 28 December 1999, you signed a statement in which you admitted to be homosexual. On 3 January 2000, you were notified about the initiation of administrative separation processing by reason of misconduct-commission of a serious offense and homosexual conduct, at which point, you waived all your procedural rights. On 8 January 2000, you began a fourth period of UA, which lasted one-day. On 9 January 2000, you signed a suspect's rights acknowledgment for unlawful entry, theft of a car key, and assault. Consequently, you decided to waive all your procedural rights. On 10 January 2000, you signed a suspect's rights acknowledgment for breaking restrictions and disobeying a lawful order, at which point, you waive all your rights. On 13 January 2000, you began a fifth period of UA, which lasted twenty-nine days. On 11 February 2000, you signed a suspect's rights acknowledgment for conspiracy and desertion, at which point, you waived all your rights. On 23 February 2000, you were charged with conspiracy, two specifications of UA, four specifications of breaking restrictions, and damage to government property. On 10 March 2000, you requested separation in lieu of court-martial and declined to submit a statement. On 21 March 2000 your commanding officer approved your separation in lieu of court-martial. You were discharged on 22 March 2000.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your counsel's contention that you were not acclimating to the Navy's way of life, and that the command should have initiated administrative separation proceedings with an Entry Level Separation. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your repeated misconduct, as evidenced by your NJP, outweighed these mitigating factors. The Board noted you did not submit any documentation or advocacy letters to be considered. 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,

4/6/2021

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Executive Director

Signed by: █