



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: 0040-22
Ref: Signature Date

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Dear █:

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 5 January 2022. 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).

Your application was reviewed under the Don't Ask, Don't Tell Repeal Act of 2010, 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 can grant a request to upgrade a discharge that was based on homosexuality when two conditions are met: (1) the original discharge was based solely on "Don't Ask Don't Tell" (DADT) or similar policy, and (2) there were no aggravating factors such as misconduct.

Prior to your enlistment, you underwent pre-enlistment medical examinations on 27 June 2002. During the medical examination you reported no psychiatric issues, and stated that you had no consultation with a mental health professional in the last seven years from the date of the examination. You enlisted in the Navy and began a period of active service on 2 April 2003. On 10 April 2002, you underwent a medical examination where you revealed, in part, two separate outpatient counseling sessions for anger problems, prior to your enlistment into naval service. Additionally, you disclosed identity disturbance to include sexual identity, suicidal behavior,

feeling depressed, and dissociative spells. You were diagnosed with borderline personality disorder, and as a result, you were recommended for administrative separation by a staff psychiatrist. On 14 April 2003, you were notified initiation of administrative separation proceedings by reason of defective enlistment and induction due to erroneous enlistment as evidence by borderline personality disorder. You were notified of the initiation of your separation 12 days from the date of your enlistment. On 15 April 2003, the discharge authority approved and directed your separation from naval service. On 18 April 2003, you were discharged with an uncharacterized character of service by reason of erroneous enlistment.

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 and Under Secretary of Defense Memo of 20 September 2011 (Correction of military records following repeal of 10 U.S.C. §654). These included, but were not limited to, your desire to correct your service record. You contend while being evaluated for a knee injury you were sent to separations, which you believe was to deter from your physical injury. You state you have never been diagnosed with any mental illness or any personality disorders. The Board reviewed the evidence you submitted with your application, and concluded these potentially mitigating factors were insufficient to warrant relief. The Board noted your discharge was not founded on homosexuality. You were discharged as a result of your failure to disclose your psychiatric problems prior to your enlistment. You were notified of your separation process within 180 days of the beginning of your period of active service. Applicable regulations authorize an uncharacterized entry level separation if the processing of an individual's separation begins within 180 days of the individual's entry on active service. Specifically, based on your naval record, the Board relied upon the presumption of regularity and presumed that the officials acted in accordance with governing law/policy and in good faith. Therefore, the Board in its review discerned no impropriety or inequity in your discharge. 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,

1/24/2022

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Executive Director

Signed by: █