



**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: 4978-22

Ref: Signature date



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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 22 July 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, 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 11 June 1987. On 27 October 1987, you were counseled for underage drinking. You were advised that failure to take corrective action could result in administrative separation. On 2 November 1987, you began a period of unauthorized absence (UA) which lasted 14 days. On 25 November 1987, a medical officer diagnosed you with a personality disorder after you admitted to suicidal ideations and an incident where you ingested 20 Tylenol pills. On 3 December 1987, you received nonjudicial punishment (NJP) for the previous period of UA, attempting to intentionally inflict self-injury for the purpose of avoiding military service, and for failure to obey a lawful order. On 21 December 1987, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to commission of a serious offense, and convenience of the government as evidence by a personality disorder. On the same date, you elected to waive all your procedural rights. On 20 January 1988, your commanding officer recommended a General (Under Honorable Conditions) discharge characterization of service by reason of misconduct due to commission of a serious

offense, and convenience of the government as evidence by a personality disorder. However, on 5 February 1988, the discharge authority approved and ordered an Other Than Honorable (OTH) discharge characterization of service by reason of misconduct due to commission of a serious offense. On 18 February 1988, you were discharged.

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 desire for a discharge upgrade and contentions that you are currently disabled, have lived bad memories as a result of your discharge, and you elected to hide your sexual orientation. You further contend that you lost your mother at age 15, were later abandoned by your father, and you lost hope based on your inability to disclose your sexual orientation. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and weighed it against your record of service. The Board noted you only served approximately eight months on active duty and provided no evidence to support your contentions. Under Secretary of Defense Memo of 20 September 2011 (Correction of Military Record following Repeal of U.S.C. 654) sets forth the Department of the Navy's current policies, standards, and procedures for correction of military records following the "don't ask, don't tell" (DADT) repeal of 10 U.S.C. 654. It provides service Discharge Review Boards with the guidance to grant requests to change the characterization of service 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 your case, the Board determined you were processed for administrative separation based on your misconduct and personality disorder, and not for your sexual orientation. Similarly, the Board determined that your characterization of service was based on your misconduct and not your sexual orientation. Thus, the Board concluded the aforementioned policy does not apply to you. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Sailor and continues to warrant an OTH characterization. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. 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, \_\_\_\_\_

8/8/2022

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Executive Director

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