



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

█  
Docket No. 1003-23  
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 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 24 February 2023. 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).

You enlisted in the Navy and began a period of active service on 23 June 2000. You received non-judicial punishment (NJP), on 4 November 2002, for unauthorized absence (UA). On 12 December 2003, you received your second NJP for failure to report to your appointed place of duty. On the same day, you were counseled regarding your receipt of NJP, and you were notified further deficiencies in your conduct could result in the initiation of administrative separation proceedings. On 30 April 2004, you received your third NJP for UA, and dereliction in the performance of your duty. Subsequently, on 4 May 2004, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct and commission of a serious offense, at which point, you waived your right to consult with counsel. Your commanding officer recommended to the separation authority (SA) that you be separated from the Navy with a General (Under Honorable Conditions) (GEN) character of service. The SA approved the recommendation and directed your discharge. You were discharged, on 6 May 2004, with a GEN by reason of pattern of misconduct.

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 to upgrade your characterization of service and contentions that you believe your discharge was too harsh and your executive officer was later relieved of his position due to loss of confidence based on alleged personal misconduct. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board determined that your misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your repeated misconduct and the likely negative impact it had on the good order and discipline of your unit. Further, the Board took into consideration that you were notified regarding the consequences of continued misconduct. This led the Board to conclude you showed a complete disregard for military authority and regulations. Finally, the Board was not persuaded by your implied argument that your executive officer somehow abuse his discretion while processing your administrative separation. The Board noted that your commanding officer was the one who recommended your GEN characterization of service and it was approved by higher level authority. As a result, the Board concluded significant negative aspects of your active service outweigh the positive aspects and continues to warrant a GEN characterization. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting you the relief you requested or granting relief as a matter of clemency or equity. 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,

3/20/2023

