



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

█  
Docket No. 3246-23  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 24 April 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, 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 on 8 July 2003 with a waiver for criminal trespassing to vehicle. On 30 September 2003, you began a period of active duty.

On 26 May 2005, you received nonjudicial punishment (NJP) for a period of unauthorized absence, making a false statement, and forgery. On 9 June 2005, you received a second NJP for two instances of breaking restrictions. Subsequently, you were counseled regarding your misconduct and warned that continued misconduct may result in administrative separation processing.

On 23 June 2005, you received a third NJP for breaking restrictions. As a result, on 30 June 2005, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to pattern of misconduct, at which point, you decided to waive your procedural rights. On 5 July 2005, your commanding officer recommended an Other Than Honorable (OTH)

discharge characterization of service by reason of misconduct due to pattern of misconduct. On 6 July 2005, the separation authority approved and ordered an OTH discharge characterization by reason of misconduct due to pattern of misconduct. On 18 July 2005, you were so 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: (a) you were an E-5 with 4.0 evaluation while serving as a damage control petty officer, (b) you served your country in dangerous waters as part of Operation Enduring Freedom, (c) you were young and immature, wanted to fit in, and got in trouble for drinking, and (d) you have been diagnosed with Post Traumatic Stress Disorder (PTSD) and are in need of help. For purposes of clemency and consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters. Further, the Board noted you provided no evidence in support of your contention that you suffered from PTSD.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, 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 misconduct and the likely negative impact it had on the good order and discipline of your unit. The Board was not persuaded by your arguments in mitigation and noted that you submitted no evidence to substantiate your contentions. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH 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 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,

5/10/2023

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Executive Director  
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