



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

█  
Docket No. 7625-23

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 submitted within the statute of limitations, the Board found it in the interest of justice to review your request. A three-member panel of the Board, sitting in executive session, considered your application on 6 November 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 this 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the United States Navy and commenced a period of active duty on 30 October 2000. On 29 March 2002, you received non-judicial punishment (NJP) for violations of the Uniform Code of Military Justice (UCMJ). On 9 April 2003, you received your second NJP for violating UCMJ Article 92, for two specifications of failure to obey an order, Article 86, for absence without leave, Article 108, for destruction of military property of the United States,

Article 128, for two specifications of assault, and Article 134, for two specifications of drunkenness - incapacitation for performance of duties through prior wrongful indulgence in intoxicating liquor. You did not appeal either NJP.

On 1 May 2003, you were notified that you were being processed for an administrative discharge by reason of alcohol rehabilitation failure with a General (Under Honorable Conditions) (GEN) characterization of service. You elected your right to consult with qualified counsel and your right to submit written matters for consideration by the separation authority. Your Commanding Officer positively endorsed your separation, stating that you had been “afforded the opportunity to receive the necessary treatment to correct his alcohol problem. However, due to his failure to follow his medically prescribed and command approved aftercare plan and his most recent non-judicial punishment, which was alcohol related, and in accordance with enclosure (1), paragraphs 7a(3) and 7a(4) of OPNAVINST 5350.4C, "Drug and Alcohol Abuse Prevention and Control", [Petitioner] meets the criteria for mandatory separation processing. [Petitioner's] behavior, if he is retained, may result in continued alcohol abuse, which could possibly endanger himself and others. I have determined that separation is in the best interest of [Petitioner] and the naval service.” On 10 June 2003, you were discharged from the Navy for “Alcohol Rehabilitation Failure” with a GEN characterization of service and assigned a RE- 4 reentry code.

You previously submitted an application for review by the Naval Discharge Review Board and were denied relief on 22 October 2004.

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: (1) your desire to upgrade your discharge characterization, (2) your contention that you were going through a difficult time in service, which led to alcohol abuse, and (3) your youth at the time of your misconduct. Additionally, the Board noted you checked the “PTSD” box on your application but chose not to respond to the Board’s 15 September 2023 letter requesting supporting evidence of your claim. For purposes of clemency and equity consideration, the Board noted that you did not provide advocacy letters or documentation related to post-service accomplishments.

After thorough review, the Board concluded your 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 fact that it involved an alcohol related incident involving assault. Further, the Board also considered the likely negative impact your conduct had on the good order and discipline of your command. The Board determined that alcohol abuse and related misconduct is contrary to the Navy core values and policy, renders such Sailor unfit for duty, and poses an unnecessary risk to the safety of fellow shipmates. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade.

As a result, the Board concluded significant negative aspects of your 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,

11/18/2023

