



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. 10750-23
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 reconsideration application on 2 February 2024. 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 took your oath of office and commissioned as an Ensign, on 11 April 1997, following graduation from Officer Candidate School. You promoted to the grade/rank of Lieutenant (O-3) on 1 May 2001.

You were detailed as the █ Officer in Charge of █ following Hurricane Ivan in 2004. Your duties included tending to the needs of the displaced military families and ensuring that the park ran smoothly. The █ was living in █. Based on allegations made by a Petty Officer that you may be having an affair with his spouse, the Executive Officer gave you a lawful order not to have any contact with the Petty Officer's spouse. On 13 January 2005, you were again given an order by a superior Commissioned

Officer to not to have any contact with the Petty Officer's spouse. However, despite you being married at all relevant times, you engaged in a prolonged intimate relationship with the Petty Officer's spouse despite numerous orders to cease all contact with her.

On 8 March 2005, you received non-judicial punishment (NJP) for three (3) separate specifications of failing to obey a lawful order to refrain from contact with the Petty Officer's spouse, and also for conduct unbecoming an officer and gentleman related to your adulterous relationship. You were found guilty at NJP of conduct unbecoming an officer and gentleman, and two of the three charged orders violations. You were awarded a punitive letter of reprimand (PLR), and restriction. You did not appeal either your NJP or PLR.

Within the command's Report of NJP, dated 21 March 2005, the Commanding Officer, ██████████ ██████████ recommended to the Bureau of Naval Personnel that you be detached for cause, and that you be required to show cause for retention in the naval service. On 21 April 2005, you declined to submit comments on either the NJP Report or the PLR.

On 1 August 2005, the Show Cause Authority (SCA), Commander, Navy Personnel Command (CNPC), initiated administrative action requiring you to show cause for retention based on your documented misconduct and substandard performance of duty. The SCA notification advised you that you could, inter alia, tender a qualified resignation request for a General (Under Honorable Conditions) (GEN) characterization of service in lieu of separation processing. On 2 August 2005, you returned your completed acknowledgment of rights form where you elected, in writing, not to tender your qualified resignation request for a GEN discharge in lieu of administrative show cause proceedings, and you instead elected to appear before a Board of Inquiry. However, you subsequently reversed course and, on 18 January 2006, submitted a qualified resignation request for a GEN characterization of service in lieu of separation processing.

CNPC recommended to the Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN(M&RA)) that you be separated for misconduct with a GEN characterization of service. On 24 March 2006, ASN(M&RA) approved CNPC's recommendation. Ultimately, on 31 May 2006, you were separated from the Navy for misconduct with a GEN characterization of service at the rank/grade of O-3.

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 change to your reentry code. You contend that: (a) you are requesting that your reentry code be changed so you can return to military service, (b) what occurred in the last few months of your Navy service was uncharacteristic and a one-time occurrence, (c) you served honorably for over eighteen (18) years of combined officer/enlisted service, (d) noteworthy post-service conduct, (e) you have consistently upheld a high standard of professionalism, initiative, accountability, and integrity in both your personal and professional lives, and (f) with the exception of your one professional



misstep, you consistently uphold the Navy Core Values. For purposes of clemency and equity consideration, the Board considered the entirety of the evidence you provided in support of your application.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Regarding your discharge upgrade request, the Board determined that your discharge from the Navy with a GEN characterization was warranted. The Board determined that your substantiated misconduct clearly demonstrated you had minimal potential to contribute positively to the Navy as an officer responsible for the care and well-being of enlisted Sailors. The Board also noted that your misconduct and total lack of judgment was not just an isolated incident and the record reflected you engaged in such misconduct over an extended period of time. Thus, the Board found that your GEN separation to be appropriate under the totality of the circumstances.

Additionally, the Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade and/or to make any conforming changes to your DD Form 214. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH or GEN conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a commissioned officer. The Board also determined that the record clearly reflected your misconduct was deliberate and willful and indicated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

As a result, the Board concluded significant negative aspects of your service outweigh the positive aspects and continues to warrant a GEN characterization. While the Board carefully considered the evidence you submitted in mitigation, 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Finally, the Board noted that your request to change your reenlistment code was moot because only enlisted personnel, and not officers, receive reenlistment/reentry codes. Therefore, the Board took no action on this aspect of your application.

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,

2/14/2024

