



**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. 724-24  
Ref: Signature Date



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 originally enlisted in the U.S. Navy and began an initial period of active duty service on 10 July 2000. Your pre-enlistment physical examination, on 29 June 1999, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms. Your last reenlistment occurred on or about 18 June 2014 for a period of six (6) years.

On 12 February 2019, pursuant to your guilty pleas, you were convicted at a General Court-Martial (GCM) of: (a) human/sex trafficking in █ in violation of 18 USC 1591, and (b) knowingly attempting to recruit, harbor, transport, and obtain persons for labor or services in █ by means of fraud or coercion in violation of 18 USC 1590. You were sentenced to

confinement for four (4) years, and a discharge from the Navy with a Dishonorable Discharge (DD). On 23 May 2019, the Convening Authority approved the GCM sentence as adjudged. Upon the completion of appellate review in your case, on 12 October 2022, you were punitively discharged from the Navy with a DD and assigned an RE-4 reentry code.

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 narrative reason for separation. You contend that: (a) your request is made on the basis of clemency, (b) you were a remarkable Sailor prior to the incidents leading to your discharge, and you are also strongly supported by your family, (c) you have accepted responsibility for your actions and served your punishment, (d) you dedicated nearly two decades to the service of your country, including multiple deployments, and (e) justice requires that your years of honorable service and self-sacrifice be recognized. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious to deserve an upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board noted that, although one's service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization. The Board determined that characterization under a DD or Bad Conduct Discharge is generally warranted for serious 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 Sailor. The Board determined the record clearly reflected that your particularly egregious misconduct was intentional and willful and demonstrated you were unfit for further service. The Board also determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions.

The Board also noted that, although it cannot set aside a conviction, it might grant clemency in the form of changing a characterization of discharge, even one awarded by a court-martial. However, the Board concluded that despite your contentions this was not a case warranting any clemency as you were properly convicted at a GCM of extremely serious misconduct involving human trafficking. As a result, the Board determined that there was no impropriety or inequity in your punitive discharge prior to reaching retirement eligibility, and the Board concluded that your misconduct and disregard for good order and discipline clearly merited your DD. 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.

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,

2/8/2024

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Executive Director

Signed by: █