



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

█  
Docket No. 1722-24  
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 4 March 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 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).

You enlisted in the United States Navy and commenced a period of active duty on 3 February 1997. Over the course of your service, you were held accountable for multiple disciplinary infractions. On 26 November 1997, you received your first non-judicial punishment (NJP) for violating Uniform Code of Military Justice (UCMJ) Article 86, for unauthorized absence (UA), and Article 107, for false official statement. You were formally counseled due to this misconduct and put on notice that further misconduct could result in judicial punishment and/or administrative separation. On 5 June 1999, you received your second NJP for violating UCMJ, Article 91, for disrespect, Article 128, for simple assault, and Article 134, for communicating a threat. On 25 June 1999, you received your third NJP for violating UCMJ Article 91, for disrespect towards superior petty officers. On 1 July 1999, you received your fourth NJP for violating UCMJ Article 89, for disrespect toward a superior commissioned officer, Article 90, for willful disobedience, and Article 134, for communicating a threat. On 23 July 1999, you received your fifth NJP for

violating UCMJ Article 91, for disrespect toward a superior petty officer. You did not appeal any of your NJPs.

On 16 August 1999, you were notified that you were being processed for an administrative discharge by reason of pattern of misconduct and commission of a serious offense. After consulting with qualified counsel, you waived your right to present your case at an administrative separation board. On 7 September 1999, you were discharged from the Navy for misconduct and assigned an Other Than Honorable (OTH) characterization of service and 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: (1) your desire to change your discharge characterization, (2) your assertion that you were immature and made a lot of bad decisions while in the service, and (3) your contention that you matured post-service as evidenced by your service in the Army National Guard. For purposes of clemency and equity consideration, the Board noted that you provided you service documents from the with Army National Guard, but no advocacy letters or other documentation of 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 assault and communicating threats. 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 such misconduct is contrary to Navy core values and policy, renders such Sailor unfit for duty, and poses an unnecessary risk to the safety of fellow service members. A characterization under OTH conditions 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 service member. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that your characterization was based on a series of infractions, not a one-time incident, and that that an OTH characterization of service is still the appropriate characterization in your case.

Additionally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Therefore, 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,

3/18/2024

