



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

██████████  
Docket No. 2413-24  
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.

A three-member panel of the Board, sitting in executive session, considered your application on 27 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 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 enlisted in the U.S. Navy and began a period of active duty on 7 March 2018. On 16 August 2019, you were counseled regarding your behavior and interactions with specific sailors. You received non-judicial punishment (NJP), on 28 May 20, for not being at your appointed place of duty, failure to obey an order or regulation, and insubordinate conduct towards a petty officer first class. Subsequently, you were issued a counseling warning after your NJP.

Unfortunately, some documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. You were discharged with a General (Under Honorable Conditions) characterization of service, your narrative reason for separation is "Misconduct – Commission of a Serious Offense," your separation code is "JKQ," and your reenlistment code is "RE-4."

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for relief. The NDRB denied your request, on 25 July 2022, after determining your discharge was proper as issued. You reapplied to the NDRB for relief with new contentions. On 17 May 2023, the NDRB changed your characterization of service to Honorable, your narrative reason for separation to “Misconduct – Minor Infractions,” and your separation code to “JKN.”

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 to change in your reentry code and contentions that you were told your reentry code would automatically be changed to allow you to reenlist and the command did not like you. 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. Specifically, the Board determined that your misconduct, as evidenced by your NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and determined that it showed a complete disregard for military authority and regulations. Further, the Board determined that you have received a large measure of clemency when the NDRB granted your significant relief. Additionally, the Board noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a reentry code to be automatically upgraded after a specified number of months or years. Finally, the Board noted that service regulations direct the assignment of an RE-4 code when the reason for separation is Misconduct, Minor Infractions.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a Sailor and continues to warrant a RE-4 reentry code. 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. 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,

4/4/2024

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Executive Director

Signed by: █