

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

> Docket No. 3983-24 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 threemember panel of the Board, sitting in executive session, considered your application on 12 June 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).

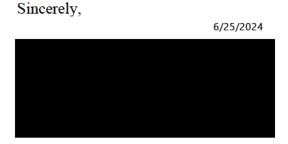
You enlisted in the U.S. Navy and began a period of active duty on 12 May 1998. Prior to your enlistment, you disclosed some of your preservice misconduct to include use of a controlled substance, drunk in public, and abuse of a household member. After not disclosing all preservice misconduct, the Commanding Officer (CO) notified you of administrative separation processing for Erroneous Entry and you elected your right to consult with counsel and to a review of your discharge. Commanding Officer (CO) made his recommendation to the Separation Authority (SA) that you be discharged with an uncharacterized Entry Level Separation (ELS). The SA accepted the recommendation and you were so discharged on 4 September 1998.

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 contentions that you completed the background check in the spring of 1996, were cleared to enter into the Navy, you

were sent to **by** the U.S. Marshalls for possession of weapons which you inherited from your father, the charge of person in possession of firearm was reduced to a misdemeanor, and this occurred at the same court in **bound** that put out a warrant for your fleeing the state to avoid prosecution in 1996. For purposes of clemency and equity consideration, the Board noted you provided a personal statement but no supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your uncharacterized entry level separation remains appropriate¹. Service regulations direct members processed for separation within their first 180 days of active duty to be assigned an uncharacterized entry level separation. While there are exceptions to the policy in cases involving misconduct or extraordinary performance, the Board determined neither applied to you. 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. 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.



¹ The Board noted in your application that you requested a characterization of discharge change from "other-than honorable" (OTH) to Honorable. As discussed previously, your record shows that you were never assigned an OTH characterization of service. The uncharacterized entry level separation you were assigned does not equate to an OTH.