



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

██████████  
Docket No. 7524-24  
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 filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 28 October 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 Navy and commenced active duty on 5 July 2005. On 16 October 2007, you received non-judicial punishment (NJP) for drunken and reckless operation of a vehicle, and, on 15 March 2008, you received NJP for an orders violation.

Unfortunately, the 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. Based on the information contained on your Certificate of Release or Discharge from Active Duty (DD Form 214), you were separated on 18 April 2008 with a "General (Under Honorable Conditions) (GEN)" characterization of service, your narrative reason for separation is "Pattern of Misconduct," your reentry code is "RE-4," and your separation code is "JKA," which corresponds to misconduct - pattern.

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 upgrade your characterization of service and your contentions that the Navy made an error by separating you for misconduct although you had not violated the page 13 administrative warning you received after your second NJP. For purposes of clemency and equity consideration, the Board noted you did not provide 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 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 it involved drunken and reckless operation of a vehicle. The Board determined such conduct renders members unfit for duty and poses an unnecessary risk to the safety of others. The Board further opined, even after this occurrence, you elected to again commit misconduct by disobeying an order. The Board also determined that considerable clemency was already extended to you when you received a GEN discharge when your misconduct could have warranted a less desirable characterization. Lastly, the Board concluded, without additional evidence such as advocacy letters or other documentation to support your post-service conduct and accomplishments, the Board was unable to grant your request as a matter of clemency.

Regarding your contention that you were erroneously separated after receiving a Page 13 counseling after your second NJP, the Board disagreed. Specially, the Board considered exhibit G of your legal brief, which you purport is a Page 13 counseling warning. This document, which also exists in your Official Military Personnel File (OMPF), is a Page 13 but it is not a counseling warning. Rather, it merely administratively documents that you received NJP. A Page 13 counseling warning would contain language indicating a deficiency in your performance or conduct, prescribe corrective measures you could take, and state that continued misconduct may result in disciplinary action and processing for administrative separation, or language similar.

As a result, the Board concluded significant negative aspects of your service outweigh the positive aspects and continues to warrant a GEN characterization. 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,

11/14/2024

