



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

██████████  
Docket No. 8309-24  
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 11 December 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 14 February 2001. Upon entry onto active duty, you were granted a waiver for obstruction of a police officer and battery with physical harm. On 9 February 2002, you received non-judicial punishment (NJP) for disrespect towards a superior petty officer, two specifications of assault, and communicating a threat. You were subsequently issued a counseling warning that any further deficiencies in performance and or conduct could result in administrative separation. On 1 August 2002, you received your second NJP for two specifications of insubordinate conduct towards a petty officer, two specifications of provoking speech and gestures, and communicating a threat. On 24 February 2003, you received your third NJP for failure to go to your appointed place of duty, two specifications of insubordinate conduct towards a petty officer, dereliction of duty, and two specifications of communicating a threat.

Consequently, you were notified of administrative separation processing for misconduct by reason of pattern of misconduct and commission of a serious offense. After you waived your rights, your commanding officer forwarded his recommendation that you be separated with an

Other Than Honorable (OTH) characterization of service. The separation authority approved the recommendation and you were so discharged on 21 April 2003.

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 contention that after graduating your "A" school and reported to your ship, the attacks of 9-11 happened and you were traumatized. It wasn't until years later and speaking with a therapist that they realized the fear of war and nightmares caused you to act erratic and misbehave for a way out. The Board noted you checked the "Other Mental Health" box on your application but did not respond to the Board's request for supporting evidence of your claim. 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 found that your conduct showed a complete disregard for military authority and regulations. Further, the Board noted that you were given opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently serious to negatively affect the good order and discipline of your command. Finally, the Board observed that you provided no evidence, other than your statement, to substantiate your contentions.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. Even in light of 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,

1/8/2025

