



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

██████████  
Docket No. 8322-24  
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.

Because your application was submitted with new contentions not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel, sitting in executive session on 25 November 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You previously applied to this Board for a discharge upgrade and were denied on 24 January 2005. The facts of your case remain substantially unchanged.

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 your narrative reason for separation to remove references to alcohol rehabilitation failure and change your reentry code. You contend that, although your DD Form 214 indicates you were separated for alcohol rehabilitation failure, you do not consider yourself to be one, because your reason for refusing treatment was because

you do not drink. You further contend the whole situation stemmed from a misinterpreted statement made by a nurse working on the psychiatric unit. You state she blew your statement way out of proportion and forced action by a civilian psychologist against you until you were forced out of the Navy. You contend this was totally unfair and an error you strongly feel should be corrected. You state, never in five and a half years were you ever written up, that you were a good Sailor, and that the language on your DD Form 214 has cost you work, so you would like it removed. Additionally, the Board noted you checked the "Reprisal/Whistleblower" box on your application. For purposes of clemency and equity consideration, the Board considered the documentation you provided, including your resume.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your diagnosis of alcohol dependency, in conjunction with your informed refusal to participate in alcohol rehabilitation, correctly resulted in your administrative separation for alcohol rehabilitation failure. The Board noted you were twice informed such refusal would result in your separation yet you persisted in your decision, despite your knowledge of the outcome. In making this finding, the Board considered the seriousness of your alcohol dependency and that such a diagnosis renders members unfit for duty, and poses an unnecessary risk to the safety of themselves and their fellow service members. Although you contend you refused treatment because you did not drink alcohol, due to the risks affiliated with alcohol dependency, the Board deferred to the knowledge and expertise of the medical providers who diagnosed and assessed you.

As a result, the Board concluded you did, in fact, abuse alcohol, and was appropriately separated according to the narrative reason of "Alcohol Abuse – Alcohol Rehabilitation Failure." Further, the Board determined you were appropriately assigned an RE-4 reentry code based on your unsuitability for further military service. Finally, based on the above findings, the Board found no evidence you were the victim of reprisal.

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 induce the modification to your record you request. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

As stated above, the Board determined there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC 1034. 10 USC 1034 provides the right to request Secretary of Defense review of cases with substantiated reprisal allegations where the Secretary of the Navy's follow-on corrective or disciplinary actions are at issue. Additionally, in accordance with DoD policy you have the right to request review of the Secretary of the Navy's decision regardless of whether your reprisal allegation was substantiated or non-substantiated. Your written request must show by clear and convincing evidence that the Secretary of the Navy acted arbitrarily, capriciously, or contrary to law. This is not a de novo review and under 10 USC 1034(c) the Secretary of Defense cannot review issues that do not involve reprisal. You must file within 90 days of receipt of this letter to the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Office of Legal Policy, 4000 Defense Pentagon, Washington, DC

20301-4000. Your written request must contain your full name, grade/rank, duty status, duty title, organization, duty location, mailing address, and telephone number; a copy of your BCNR application and final decisional documents; and, a statement of the specific reasons why you are not satisfied with this decision and the specific remedy or relief requested. Your request must be based on factual allegations or evidence previously presented to the BCNR, therefore, please also include previously presented documentation that supports your statements.

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,

1/6/2025

