



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

██████████
Docket No. 8609-24
Ref: Signature Date

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Dear ██████████

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 7 March 2025. 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 to 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 the understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on evidence of record.

You enlisted in the Navy and began a period of active duty on 8 July 2003. Serving with the Fleet Marine Forces (FMF) as a combat hospital corpsman, you deployed from 23 August 2004 through 2 March 2005 in support of Operation Iraqi Freedom (OIF); which resulted in the award of both the FMF ribbon and the Combat Action Ribbon (CAR). You then deployed with the Marines in support of OIF, again, from 26 August 2005 through 16 March 2006; following which you were awarded the Iraq Campaign Medal with the distinguishing Marine Corps device of the Eagle Globe and Anchor. You also served a third OIF deployment from 6 October 2009 through 24 February 2010.

Your effective date of pay grade for promotion to the senior enlisted rank of Chief Petty Officer / E-7 was 16 June 2015. During your 17 years, 9 months, and 29 days of active duty service, you reenlisted on three occasions, with the final reenlistment occurring on 11 December 2015. On 9 February 2019, you transferred overseas for duty in ██████████, ██████████; where you began a fraternizing and unlawful relationship with a junior enlisted sailor. When questioned during the investigation into this relationship, you initially were not forthright in your responses. As a result, on 2 October 2020, you accepted nonjudicial punishment (NJP) for violation of the Uniform Code of Military Justice under Article 92, for violating a lawful order or regulation by fraternizing as a senior enlisted service member with a junior enlisted service member, and under Article 107, for your false official statement with respect to the inquiry into the alleged fraternization. Due to the seriousness of the offenses and the seniority of your grade and rank, you were processed for proposed administrative separation by reason of misconduct due to commission of a serious offense. You requested, and received, a formal hearing before an administrative separation board; which convened on 17 December 2020. The administrative board members substantiated the basis of misconduct, with respect to both violations of the UCMJ constituting serious offenses, and recommended that you be discharged under honorable conditions with a transfer to the Individual Ready Reserve (IRR). Following the review and approval of the administrative separation board's record of proceedings, you were discharged, on 6 May 2021, with a General (Under Honorable Conditions) characterization of service, by reason of misconduct due to commission of a serious offense, and with an "RE-4" reentry code.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a review of your discharge and contended that you had not provided a false official statement during the investigation. You also sought an upgraded characterization of service on the basis of your mental health claims of combat-related post-traumatic stress disorder (PTSD) and the overall quality and length of your service in contrast to your single NJP. The NDRB formally reviewed your request on 19 July 2023 and granted an upgrade of your characterization of service to Honorable. With respect to your denial of having provided a false official statement, the NDRB found those contentions unsupported by sufficient evidence and pointed out that you "understood what the investigation was for and failed to admit the existence of a relationship with the seaman."

You appear to have provided substantial medical documentation to the NDRB for its review; which you did not include with your current application to the Board. The NDRB's decision documented the review of these records via a medical advisory opinion; which noted that you had an in-service diagnosis of Major Depressive Disorder, other specified trauma / stressor-related disorder, and a related post-discharge diagnosis from the Department of Veterans Affairs of post-traumatic stress disorder (PTSD). The medical advisory opinion noted that those conditions were present at the time of your misconduct and were possibly mitigating; but that the impact of those experiences was questionable when related to your misconduct, given the significant length of time that had elapsed between your combat deployment and your misconduct. It also observed that objective symptom testing done in 2020 showed that you over-exaggerated your PTSD symptoms in the setting of your legal issues. Regardless of this caveat, the NDRB found, under the policies applicable to liberal consideration of your PTSD contentions, that you had a condition or experience which may excuse or mitigate your discharge, that the condition existed during your military service, that the condition or experience mitigated the underlying misconduct or basis of your discharge, and that your condition or experience outweighed your discharge under honorable conditions. Of note,

although the NDRB elected to upgrade your characterization of service to fully Honorable, your narrative reason for separation remained misconduct due to commission of serious offense and your restrictive reentry code remained 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 reentry code to permit reenlistment and your contentions that you served faithfully, sacrificing over 17 years of your life, to include three combat tours with Marines in ██████████ and multiple periods of sea duty. You are apologetic for your irresponsible actions and often reflect on what you could have done differently to save your career; but you believe that one poor decision should not cost your entire career in an instant. You have accepted the consequences of your mistake, but cannot live with the loss of your career and would like the opportunity to seek reenlistment to active duty or the Naval Selected Reserves. In support of your contentions, you submitted administrative separation records from your hearing with accompanying character statements and a letter of deficiency which you request the Board to consider. You also submitted evidence of your service-connected disability benefits from the Department of Veterans Affairs (VA). Although you contend that you experienced PTSD or another mental health condition which you believe affected the circumstances of the misconduct which resulted in your administrative discharge, you did not submit sufficient medical record documentation for the Board to request a medical advisory opinion. However, during its review of your record to include the recent upgraded characterization awarded by the NDRB, the Board noted the analysis documented in the medical advisory opinion which was considered by the NDRB.

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 found that your conduct showed a complete disregard for military authority and regulations. Whereas the NDRB found sufficient basis to upgrade your characterization of discharge to fully Honorable, the Board noted that this action does not alter the propriety of your administrative separation. As a senior enlisted member within your command, the Board considered that you were specially entrusted to conduct yourself as a leader and mentor for junior enlisted sailors; over whom you had considerable influence and authority. The Board found that your decision to commit fraternization with one of those junior enlisted sailors fatally undermined your leadership ability and grossly compromised your appearance as a neutral, unbiased Chief Petty Officer. Additionally, the Board found that, more likely than not, your conduct had a negative effect of the good order and discipline of your unit. As a result, even recognizing the enormity of the loss inherent with a discharge that is effected after such a lengthy period of otherwise Honorable service, the Board concurred with the recommendation of the members of your administrative discharge board and concluded that these severity of your transgressions was sufficient to render you unsuitable for continued service as a senior enlisted leader.

While the Board carefully considered the evidence you submitted in mitigation, even in light of the Wilkie Memo and reviewing the record liberally and 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 outweigh the seriousness of your misconduct.

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 the 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 is attached 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,

3/31/2025

