



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

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Docket No. 8637-24

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 reconsideration application on 15 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).

You enlisted in the U.S. Navy and began a period of active duty service on 7 March 2018. On 1 January 2019, you reported for duty on board the █.

On 16 August 2019, your command issued you a "Page 13" retention warning (Page 13) documenting your behavior and interactions with specific female Sailors, leading to an impression of stalking and that created an uncomfortable work environment. The Page 13 noted you were requested to cease such behavior, and you did so immediately. The Page 13 advised you to be more aware of social cues.

On 28 May 2020, you received NJP for: (a) unauthorized absence (UA), (b) two separate specifications of failing to obey an order/regulation, and (c) insubordinate conduct. You did not appeal your NJP. On your performance evaluation for the period ending 28 May 2020, you were graded 1.0 (out of a possible 5.0) in “military bearing/character,” rated “significant problems,” and not recommended for reenlistment.

Your command subsequently notified you of administrative separation proceedings by reason of misconduct due to the commission of a serious offense. Information in your service record indicated that your command processed your separation using “notification procedures,” which meant the least favorable discharge characterization you could receive was General (Under Honorable Conditions) (GEN). Ultimately, on 13 November 2020, you were discharged from the Navy with a GEN characterization of service and were assigned an RE-4 reentry code. The Board noted that your narrative reason for separation on your DD Form 214 originally indicated “Misconduct - Serious Offense.”

On 17 May 2023, the Naval Discharge Review Board (NDRB) granted your initial application for relief. The NDRB did not agree with your GEN discharge characterization and, inter alia, took particular note that you had no other misconduct in your record other than the one NJP, and also recognized your overall evaluated performance by the same command. Consequently, the NDRB found that a change in characterization was appropriate and upgraded you to an Honorable discharge characterization. The NDRB also modified your narrative reason to now read “Misconduct – Minor Infractions,” change your separation code to “JKN,” and change the separation authority to the corresponding MILPERSMAN provision. The NDRB, however, did not modify your “RE-4” reentry code.

On 27 March 2024, the Board denied your initial request to change your reentry code from RE-4 to “RE-1” to allow you to potentially reenlist. The Board specifically determined and opined:

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 determined that it showed a complete disregard for military authority and regulations. Further, the Board determined that you have received a large measure of clemency when the NDRB granted your significant relief. Additionally, the Board noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a reentry code to be automatically upgraded after a specified number of months or years. Finally, the Board noted that service regulations direct the assignment of an RE-4 code when the reason for separation is Misconduct, Minor Infractions.

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 and contentions that: (a) you showed great potential as a Sailor and served honorably until hazing broke your trust,

confidence, and motivation, (b) with a suitable command environment you have shown that you can excel, (c) your chain of command made a material error of law because the chain of command violated the Navy's policy on hazing, (d) had you been given a reasonable opportunity to rehabilitate from the incidents, you have reestablished your confidence and showed the work ethic, professionalism, and standards you displayed early on board the ██████████, but instead the Navy turned its back on you making no attempt to rehabilitate you, (e) at the time of your misconduct you were plagued by personal and familial issues, and were the victim of a degrading hazing incident, and (f) you wish to rejoin the service so that you can serve your country and pass on your knowledge. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board believed you received considerable leniency by your command when they originally processed you for separation with notification procedures, thus making the least favorable discharge characterization you could receive being a GEN.

The Board concluded that any contentions regarding hazing policy violations and allegedly making any material errors of law to be without merit and unpersuasive. The Board determined that there was no credible and convincing evidence in the record regarding any purported command misconduct, improper motives, or abuses of discretion in the investigating, handling, and processing of your administrative separation. The Board determined that your administrative separation was legally and factually sufficient, and in compliance with all Department of the Navy directives and policy at the time of your discharge. The Board also determined there was no nexus between your unfortunate hazing incident and the misconduct you committed underlying your discharge.

Additionally, the Board concluded that you already received the appropriate level of relief through the NDRB's prior decision in July 2022 and determined that any injustice in your record was adequately addressed by the NDRB's grant of relief.

The Board did not believe that your record was otherwise so meritorious as to deserve a reentry code upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that an RE-4 reentry code is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The Board determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

The Board observed that character of military service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your overall active duty trait average calculated from your available performance evaluations during

your enlistment was approximately 2.0 in conduct. Navy regulations in place at the time of your discharge recommended a minimum trait average of 2.5 in conduct (proper military behavior), for a fully honorable characterization of service. The Board concluded that your conduct marks during your active duty career were a direct result of your misconduct which further justified your original RE-4 reentry code.

Additionally, absent a material error or injustice, the Board declined to summarily change a reentry code solely for the purpose of facilitating veterans' benefits, or enhancing educational, enlistment, or employment opportunities.

As a result, the Board determined that there was no impropriety or inequity in your discharge and reentry code, and the Board concluded that your misconduct and disregard for good order and discipline clearly merited your discharge and RE-4 reentry code. 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 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 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

12/2/2024

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Executive Director

Signed by: █