



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. 9453-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 28 February 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).

You enlisted in the Navy after receiving a waiver for a non-minor misdemeanor hit-and-run offense and began a period of active duty on 2 March 2004. Immediately after you began active duty, you disclosed an additional offense of possession of alcohol by a minor, which you had not previously disclosed to your recruiter.

On 21 June 2005, you commenced a period of unauthorized absence (UA) that ended on 25 July 2005. You then incurred two additional periods of UA, from 19 August 2005 through 20 September 2005 and from 3 October 2006 through 28 March 2007, terminated following your apprehension. On 9 April 2007, you were subject to nonjudicial punishment (NJP) for violations of the Uniform Code of Military Justice (UCMJ) under Articles 86 and 85. Simultaneously, you were notified of processing for administrative separation by reason of misconduct due to commission of a serious offense. You elected to waive your right to a hearing before an administrative separation board and you were recommended for discharge with an Other Than

Honorable (OTH) characterization of service. The recommendation was approved and you were so discharged on 20 April 2007.

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 discharge and your contentions that you were involved in an accident which resulted in a significant head injury, it was sufficiently severe that you have no memory of the incident, and it required emergency civilian medical care. You claim to have been denied follow-up care and assert that you were warned against acknowledging the accident; due to it occurring while you were under age and the potential it could have resulted in a court-martial. You believe it was improper that you were dissuaded from seeking medical care and state that you have suffered ongoing symptoms of traumatic brain injury (TBI) since the accident. In this regard, you attribute your misconduct and resulting discharge to symptoms and behaviors consistent with your purported TBI. For purposes of clemency and equity consideration, you submit evidence of post-discharge character and accomplishment in the form of your résumé and several character 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 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. The Board observed you were given an opportunity 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 pervasive and serious to negatively affect the good order and discipline of your command. Further, the Board noted you did not submit any medical evidence in support of your contended TBI or in support of the purported symptoms and behaviors you claim to have experienced during military service which you believe contributed to your UA periods. Additionally, the Board found that your in-service conduct appears to be a continuation of your pre-service behavior. Therefore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions.

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

3/25/2025

