



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

██████████
Docket No. 9944-24
Ref: Signature Date

████████████████████
████████████████████
████████████████████
████████████████████

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 10 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 the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

You previously applied to this Board for a discharge upgrade and were most recently denied relief on 13 March 2019. The summary of your service remains substantially unchanged from that addressed in the Board's recent decision.

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 characterization of service, change your narrative reason for separation, and change to your reentry code. You contend that you should be granted clemency under the Wilkie Memo, under the recent version of the MCO you would have been offered a reasonable opportunity to rehabilitate, your command should have complied with military custom and rehabilitated you to the greatest extent possible, your service was not flawless but your offenses occurred during the same event and you did not show frequent acts of misconduct, your punishment outweighs the severity of your misconduct,

and you received ineffective assistance of counsel. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application including your legal brief with exhibits.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your non-judicial punishment and special court-martial conviction (SPCM), outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and likely negative impact of your repeated misconduct had on your command. Additionally, the Board noted you were given opportunities to address your conduct issues but you continued to commit misconduct; which led to your Other Than Honorable 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. Finally, the Board was not persuaded by your contentions that you received ineffective assistance of counsel and noted you voluntarily waived your right to an administrative separation board. Regardless, after weighing your record of misconduct against your relatively brief period of active duty service, the Board was not persuaded that an administrative separation board would have recommended a different result.

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. Although the Board carefully considered the evidence you provided 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.

Sincerely,

3/12/2025

