

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

> Docket No. 10129-24 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.

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 threemember panel of the Board, sitting in executive session, considered your reconsideration application on 13 December 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 12 October 1999. On 21 January 2000, you reported for duty with the **service service service** in **service**.

On 16 June 2000, you received non-judicial punishment (NJP) for an unauthorized absence (UA) and for possession of a false pass. You did not appeal your NJP. On 22 June 2000, your command issued you a "Page 13" retention warning (Page 13) documenting your NJP. The Page 13 expressly advised you that any further deficiencies in your performance, behavior, and/or conduct may result in disciplinary action and possible administrative separation.

On 30 November 2000, you received NJP for UA. You did not appeal your NJP. On 3 December 2000, your command issued you a Page 13 documenting your NJP. The Page 13 expressly advised you that any further deficiencies in your performance, behavior, and/or conduct may result in disciplinary action and possible administrative separation.

On 27 December 2000, you received NJP for UA. You did not appeal your NJP. On 11 January 2001, your command issued you a Page 13 documenting your NJP. The Page 13 expressly advised you that any further deficiencies in your performance, behavior, and/or conduct may result in disciplinary action and possible administrative separation.

However, on 16 January 2001, you commenced a period of UA that terminated on 10 September 2001. On 18 September 2001, you commenced yet another UA that terminated on 1 October 2001.

On 13 November 2001, you were convicted at a Summary Court-Martial (SCM) of your 237 and 18-day UAs. You were sentenced to confinement for thirty (30) days, forfeitures of pay, and a reduction in rank to Seaman Apprentice. However, the reduction in rank was suspended for a period of six (6) months. On 3 December 2001, the Convening Authority approved the SCM findings and sentence.

On 17 December 2001, your command notified you of administrative separation proceedings by reason of misconduct due to a pattern of misconduct and commission of a serious offense. On 18 December 2001, you waived in writing your rights to consult with counsel, to submit written statements, and to request an administrative separation board.

On 28 January 2002, the Separation Authority approved and directed your separation for misconduct due to a pattern of misconduct with an under Other Than Honorable conditions (OTH) discharge characterization. Ultimately, on 8 February 2002, you were separated from the Navy for misconduct with an OTH discharge characterization and were assigned an RE-4 reentry code.

On 8 December 2016, the Naval Discharge Review Board (NDRB) denied your initial discharge upgrade application. The NDRB determined that your discharge was proper as issued and no changes were warranted.

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 for a discharge upgrade and contentions that: (a) you served honorably for one year and seven months before your discharge, (b) you were an outstanding member and valuable asset of the United States Navy with unlimited potential, (c) you made an uncharacteristically bad decision as a young man, and due to this decision, you were discharged from the U.S. Navy, (d) you take full responsibility for your actions, (e) you blame nobody for your decisions in the service while you were overwhelmed with concern for your mother's health, (f) you were an immature young man who was mentally distressed, ignorant, and disgruntled, and (g) you have since dedicated your life to learning from those mistakes. Additionally, the Board noted you checked the "Other Mental Health" box on your

application but did not provide supporting evidence of your claim. 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 did not believe that your record was otherwise so meritorious as to deserve a discharge 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 characterization under OTH conditions 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 simple fact remains is that you left the Navy while you were still contractually obligated to serve, and you went into a UA status without any legal justification or excuse on two (2) separate occasions for a total of approximately 250 days. Your record also contains three (3) NJPs unrelated to your SCM offenses. 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.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your cumulative 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 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,	/8/2025
Executive Director	
Signed by:	