



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. 11595-24
Ref: Signature Date

Dear ■■■■■

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 application on 3 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 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 their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Navy and commenced active duty on 20 September 1994. On 12 October 1995, you were issued an administrative remarks (Page 13) counseling concerning deficiencies in your performance and/or conduct; specifically, letters of indebtedness and writing checks with insufficient funds. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 27 November 1995, you received non-judicial punishment (NJP) for unlawful entering a vehicle belonging to another Sailor, making a false official statement, and attempted larceny of a vehicle stereo. Consequently, you were notified of pending administrative separation processing

with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to commission of a serious offense. You requested an administrative discharge board (ADB) and were represented by legal counsel at the proceedings. The ADB found that you had committed misconduct for knowingly uttering checks without sufficient funds but determined that you had not committed unlawful entry, attempted larceny, and false official statement; noting that there was “not enough [proof] to say one way or another” for those offenses. The ADB recommended that you be retained in service but your commanding officer did not concur with the ADB, recommended your discharge with an OTH, and forwarded your case to the Secretary of the Navy via the Chief of Naval Personnel (CNP). CNP recommended your discharge with a General (Under Honorable Conditions) (GEN) characterization of service. On 11 June 1996, the Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN (M&RA)) concurred with CNP and directed your GEN discharge by reason of misconduct due to commission of a serious offense. After your discharge was delayed in order for you to secure medical care for your daughter, you were so discharged on 13 February 1997.

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 discharge characterization of service and your contentions that the ADB recommended your retention in the Navy, your career was ended by one person for one accusation, and that the commanding officer knew your daughter was being treated for cancer and discharged you anyway; jeopardizing her care. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct, the negative impact your conduct had on the good order and discipline of your command, and the likely discrediting effect your conduct had on the Navy. The Board noted you provided no evidence, other than your personal statement, to substantiate your contentions. However, the Board observed that your commanding officer obtained, on your behalf, permission to allow you to remain on active duty for an additional eight months past your directed discharge date to ensure your daughter was able to continue her chemotherapy treatment. Therefore, the Board was not persuaded by your argument that you were treated unjustly by your command. Finally, the Board noted that the ADB board only made a recommendation to the separation authority; who ultimately determined your misconduct merited separation with a GEN.

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. 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. 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,

3/26/2025

