



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

██████████
Docket No. 11621-24
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 three-member panel of the Board, sitting in executive session, considered your application on 12 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).

You entered active duty with the Navy on 6 April 2000. On 13 March 2001, a general court-martial convicted you of two specifications of sexual harassment, disobeying a lawful order, and indecent language. You were sentenced to confinement for 100 days, reduction in rate, and forfeiture of pay. Consequently, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. You elected to consult with legal counsel and requested an administrative discharge board (ADB). The ADB found that you committed misconduct due to commission of a serious offense and recommended you receive an Other Than Honorable (OTH) discharge. On 17 August 2001, you were once again notified of pending administrative separation due to commission of a serious offense and pattern of misconduct. After you elected to waive your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge with an Other Than Honorable (OTH) characterization of service. The SA approved the CO's recommendation and you were so discharged on 10 September 2001.

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, change your reenlistment code, add missing schools and certificates to your DD Form 214, and to have your evaluations reconsidered. You contend that your discharge was an injustice, your evaluations were not completed properly, and you were discharged under double jeopardy. You also contend that you were harassed and bullied into accepting an OTH discharge and you were never informed of your rights to appeal your OTH discharge. The Board noted that you checked the "Other Mental Health" box on your application but did not respond to the Board's request for supporting evidence. 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 these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your GCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact your conduct had on the good order and discipline of your command. Further, the Board noted that your record clearly reflected your misconduct and the evidence of record did not show that you were not responsible for your conduct or that you should not be held accountable for your actions. Additionally, contrary to your contentions regarding the denial of due process, the Board noted the record clearly shows that your case was heard by an ADB; which found that you committed misconduct due to commission of a serious offense and recommended you receive an OTH discharge. The record also shows that you received a second notification of separation and decided to waive your procedural rights. Further, the Board also noted you provided no evidence, other than your statement, to substantiate your contentions. Therefore, the Board determined the presumption of regularity applies in your case.

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 your request does not merit relief.

Regarding your request to add schools, certificates, and have your evaluations reconsidered. The Board noted that you should contact the Department of the Navy, Navy Personnel Command (BUPERS), Sailor Assistance Center, Code Pers-312F, 5720 Integrity Drive, Millington, TN 38055-3120 to request that administrative corrections to your record of service be made on your DD Form 214 or your record of service.

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,

4/3/2025

