



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. 12378-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 on 20 May 2014. 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 for your present application 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 remove the words "unsatisfactory performance" from your DD Form 214 and amend your record to reflect completion of your full term of service, or, in the alternative, amend your record to reflect early discharge pursuant to 10 USC §1171. You contend that: (1) new documents and studies commissioned by the Navy show your discharge under Project Upgrade was improper and prejudicial; denying critical procedural rights, (2) your discharge was inequitable under 1984

standards and due to modern enhancements to service member rights, you would not have been discharged under current US Navy policies, and (3) you should have been given an Early Out discharge and, since your discharge, Early Out programs have become far more equitable, reinforcing the argument under modern policies. For purposes of clemency and equity consideration, the Board considered the materials you provided with 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 found the negative remarks in your record concerning performance outweighed these mitigating factors. In making this finding, the Board considered the impact your performance likely had on your fellow hospital staff and, potentially, patients. Although the Board acknowledged the positive evidence you submitted from two patients, the Board opined, two instances do not obviate the negative information in your record. The Board further noted you were given opportunities to correct your behavior, but failed to do, which ultimately led to your discharge under Project Upgrade.

As a result, the Board determined your basis for separation remains appropriate. 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,

3/12/2025

