



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

██████████
Docket No. 0170-25

Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 30 May 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, 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), and 20 September 2011 guidance from the Under Secretary of Defense regarding the correction of military records following the repeal of 10 U.S.C. 654 (Don't Ask, Don't Tell (DADT)).

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 a period of active duty on 21 April 2008. On 16 May 2008, you admitted to homosexual conduct. Consequently, you were notified of your pending administrative processing by reason of homosexual conduct; at which time you waived your right to consult with counsel and to have your case heard before an administrative discharge board. Subsequently, the separation authority directed you be discharged with an uncharacterized entry level separation (ELS) by reason of homosexual conduct and you were so discharged on 26 June 2008.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for a discharge upgrade. The NDRB granted partial relief by changing your narrative reason for separation, separation code, reentry code, and separation authority to reflect "Secretarial Authority."¹ However, NDRB denied your request for an upgrade in characterization after determining that your uncharacterized entry level separation was warranted; as it was initiated within 180 days of continuous active duty. Although there was no evidence of misconduct, NDRB found insufficient evidence of unusual circumstances regarding your conduct or performance to warrant an Honorable characterization of service. Given your 60 days of service, NDRB concluded that an uncharacterized discharge remained appropriate.

The Board carefully considered all potentially mitigating factors to determine whether the interest of justice warrant relief in your case in accordance with the DADT repeal memo and the Wilkie Memo. These included, but were not limited to, your desire to upgrade your discharge and corresponding updates to the characterization of service as appropriate. You contend that: (1) the DADT policy was discriminatory against LGBTQ+ service members and unjustly led to your discharge despite your willingness to serve honorably, (2) another recruit confided in you about his struggles with his sexual identity and attempted self-harm, you provided support and reassurance only to later face derogatory treatment, (3) Drill Instructors and your Captain targeted you with name-calling, threats, and statements undermining your self-worth and future potential due to your sexual orientation, (4) you were told you would "never amount to anything," and labeled as "trash" and a "quitter," (5) the hostile environment, combined with the stress of the discriminatory discharge, resulted in lasting psychological harm, including diagnoses of major depressive disorder, anxiety, and alcohol use disorder as you turned to alcohol as a coping mechanism to deal with the emotional scars left by your discharge and the accompanying verbal abuse, (6) this substance abuse has had long-term consequences, including a severe car accident that left you with permanent injuries, (7) your current characterization of discharge continues to cause harm, inaccurately reflects the nature of your service, and contributes to ongoing challenges in seeking employment and personal stability, and (8) the language used in your discharge documentation has directly impacted your mental health, personal relationships, and ability to rebuild your life after military service. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the evidence you submitted in support of your application.

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your assigned uncharacterized ELS remains accurate as you were processed for separation within your first 180 days of active duty. Service regulations direct the assignment of an uncharacterized ELS when a service member is processed for separation within their first 180 days of active duty. While there are exceptions to the policy in cases involving misconduct or extraordinary performance, the Board determined neither applied in your case.

Therefore, while the Board carefully considered the evidence you provided, 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

¹ The Board did not find a copy of a corrected DD Form 214 in your record reflecting the changes ordered by the NDRB. Therefore, the Board will provide a copy of the NDRB report to Headquarters, U.S. Marine Corps to allow them to make the ordered changes to your record.

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 the 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 is attached 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,

6/16/2025

