



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

██████████
Docket No. 2973-25
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 7 July 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), 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)), and the 13 September 2021 memorandum from the Department of Defense titled "Initiating a Review of Discharges and Military Records for Service Members Discharged Due to Sexual Orientation, as part of the DoD DADT Records Review Initiative (DRRI).

You enlisted in the U.S. Marine Corps and began a period of active duty on 17 November 2004. On 10 March 2006, you received nonjudicial punishment (NJP) for disrespect towards a superior commissioned officer and failure to obey order or regulation. Documentation associated with your NJP reflects that you submitted a written statement admitting to homosexual conduct; including acknowledgment of a propensity and intent to engage in such conduct. Consequently, you were notified of your pending administrative processing by reason of homosexual conduct; at which time you waived your procedural rights to consult with counsel and to have your case heard before an administrative discharge board. Ultimately, the separation authority approved the recommendation and directed that you be discharged with a General (Under Honorable Conditions) (GEN) characterization of service and you were so discharged on 18 April 2006.

On 20 March 2024, as a result of the DRRI, your characterization of service was upgraded to Honorable. Additionally, your narrative reason for separation, separation authority, separation program designation code, and reentry code were changed to reflect separation by "Secretarial Authority."

The Board carefully considered all potentially mitigating factors to determine whether the interest of justice warrant relief in your case in accordance with the Wilkie, DADT repeal, and DRRI Memos. These included, but were not limited to, your desire to receive financial compensation in the form of back pay in connection with your discharge and your contentions that your military separation resulted in the loss of a career in military service and limited your civilian employment opportunities. You specifically contend that your discharge characterization and separation codes have precluded you from successfully pursuing employment in law enforcement and other fields requiring an Honorable discharge and that the nature of your separation codes has subjected you to discrimination during the hiring process. You further assert that these limitations have hindered your ability to pursue your chosen career path and have caused ongoing financial instability; which you attribute directly to the circumstances of your discharge and associated discharge codes. 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 provided in support of it.

After a thorough review of the evidence and in accordance with the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness (Stanley Memorandum), the Board determined that the potentially mitigating factors presented were insufficient to warrant relief. Specifically, while the Board acknowledged that you did serve on active duty, it found no basis to correct your record in a manner that would result in additional credited service or establish entitlement to retroactive pay or benefits. According to the Stanley Memorandum, although DADT was ultimately repealed, it was the law and reflected the view of Congress during the period it was the law and the DoD regulations implementing various aspects of DADT were valid regulations during that same period. Therefore, the issuance of a discharge under DADT or that taking of an action pursuant to DoD regulations related to a discharge under DADT does not, by itself, constitute an error or injustice that would invalidate an otherwise proper action taken pursuant to DADT and applicable DoD policy. Consequently, financial compensation, such as back pay, is not authorized unless the correction to a military record results in a determination that a former service member actually served on active duty during a period for which they were previously not credited. Because the Board did not find error or injustice warranting such a correction in your case, it determined there was no basis to award back pay or related compensation.

Therefore, 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 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,

7/23/2025

