



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

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Docket No. 4306-25
Ref: Signature Date

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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.

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 8 December 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 an upgrade to your characterization of service where you contended that your discharge unjust because you were told you would not be discharged after your Summary Court Martial (SCM) and the altercation with the Petty Officer was self-defense after you were pushed. The Board denied your request on 1 November 2011. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

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 reason for separation. You contend that racial and religious discrimination was a mitigating factor in the misconduct that led to your Under Other Than Honorable Conditions

(OTH) discharge, your misconduct was youthful indiscretion, you acted in self-defense when shoved by a Petty Officer, you have rehabilitated yourself since discharge, and you cannot get benefits with your current characterization of service. Additionally, the Board noted you checked the “Other Mental health” box on your application. In response to the 24 April 2025 letter from the Board requesting medical evidence in support of your claim, your legal counsel responded in a 22 May 2025 letter by stating: █ experienced discrimination which impacted his mental state, but he has not been diagnosed with a mental health condition.” He went on to state that your request for relief is not based on liberal consideration or a mental health condition. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, your counsel’s brief with exhibits (including your statement, portions of your service record, a General Accounting Office (GAO) report, Board guidance documents, an article, and character references), and additional advocacy letters you provided.

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 six non-judicial punishments (NJPs) and SCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. The Board noted that you provided a GAO report noting instances of racial and gender discrimination in the military, but did not provide evidence, other than your statement, supporting your contentions of racial and religious discrimination.

As with each case before the Board, the seriousness of a single act must be judged on its own merit, it can neither be excused nor extenuated solely on its isolation. The Board noted that the incident you contend led to your discharge resulted in your sixth, but not final, disciplinary action. Further, you provided no evidence that your actions were in self-defense and the Board was not inclined to re-litigate an incident that occurred over 30 years ago. Regardless, the Board observed that prior to the SCM, you had received five NJPs for offenses including unauthorized absence (UA), disrespect, dereliction of duty, resisting apprehension, larceny, and disobeying a lawful order. You received your seventh disciplinary action for disrespect and willful disobedience of a lawful order one week later at NJP and were subsequently processed for administrative separation. Moreover, your extensive record of misconduct commenced prior to you reporting to USS Independence and continued over the rest of your relatively brief Navy career. Therefore, the Board was not persuaded by your arguments in mitigation.

Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans’ benefits, or enhancing educational or employment opportunities.

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. While the Board carefully considered the evidence you submitted in mitigation, 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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,

1/5/2026

