



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

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Docket No. 5074-25  
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 27 February 2026. 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to the understanding of the issues involved. Therefore, the Board determined your personal appearance was not necessary and considered your case based on evidence of record.

The following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

1. You enlisted in the Navy and began a period of active duty on 25 July 2018.
2. On 28 February 2022, you were accused of abusive sexual contact during a port call in India. The allegations were investigated by Naval Criminal Investigative Services (NCIS) and, on 24 April 2023, a prosecutorial merits memorandum (PMR) advised against prosecution.

3. Subsequently, you were processed for administrative separation by reason of misconduct due to commission of a serious offense. A Sexual Assault Disposition Report (SADR), dated 27 June 2023, documented that the disposition authority had taken administrative action, vice court-martial, and that you had been administratively separated, via notification procedures (as reflected by your separation code), with a characterization of General (Under Honorable Conditions) (GEN), under the authority of Military Personnel Manual 1910-142. You were so discharged on 14 July 2023.

4. Post-service, you applied to the Naval Discharge Review Board (NDRB) contending that the allegations of misconduct were false, you were deprived of due process, you were illegally extended beyond your expiration of service, and your characterization of GEN was assigned incorrectly. Your request was considered on 16 October 2024 and denied. The NDRB found insufficient evidence to rebut the command's administrative actions for administrative separation or to overcome the presumption of regularity and denied your request.

In your application to this Board, you express a desire for your discharge character of service be upgraded, your reason for separation be changed to Secretarial Authority, your reentry code be changed to RE-1, and remove your subject titling in the NCIS investigation record. You contend that:

1. There is insufficient evidence to keep you titled as a subject in the NCIS investigation since you did not commit the offense of which you were accused.
2. Your separation was improper due to the use of notification procedures, which prevented you from presenting your case before a separation board to obtain a more favorable outcome such as retention or an Honorable characterization of service.
3. The Wilkie mitigation factors weigh in favor of granting relief as a matter of equity and clemency.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately processed for administrative separation based on your record of misconduct. While the Board carefully considered your contention of error, the Board concluded your arguments were not convincing. The Board was not persuaded by your arguments of innocence regarding the alleged misconduct and found your commanding officer's decision to be reasonable and rational in light of the available evidence. The Board noted that a PMR not to prosecute does not *per se* indicate a lack of sufficient evidence for a conviction. Rather, prosecutors account for multiple factors in this recommendation, to include the availability of witnesses and the desires of victims regarding disposition. Although the Board did not have a copy of the PMR for reference, the Board found that the NCIS investigation makes it clear a majority of the witnesses were either foreign national civilians who worked at the hotel or members of the Australian military forces, to include the alleged victim. Thus, the Board did not concur with your contentions that there was insufficient evidence to substantiate that you committed a serious offense, particularly given the witness statements from the hotel staff who attested to letting you into the alleged victim's hotel room after you claimed to have lost your key and, upon letting you in, seeing the alleged victim asleep in her bed. Whereas you

purport to have been in a blackout state, the Board found your deception with the hotel staff, coupled with other witness statements regarding your repeated comments about wanting to “hook up” with one of the female members of the ██████████, was sufficient to contradict your purported lack of intent in your actions on the night of the incident. Likewise, the Board found insufficient evidence that you were not properly titled as the subject of the NCIS investigation. To the extent that you argue your separation proceedings were unjust because you were denied a due process opportunity to a hearing, the Board observed that the use of notification procedures for commission of a serious offense, while atypical, is fully within the discretion of the disposition authority. Therefore, the Board determined the presumption of regularity applies to your administrative separation and no error exists with your record.

The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered your desire for an upgrade to your characterization of service and the other requested changes to your record, your contentions, and all the other mitigation factors discussed in your legal brief.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, the Board noted the seriousness of your sexual misconduct and the unquestionable discrediting effect it likely had on the Navy. Therefore, even taking into consideration all the mitigation factors in your case, the Board found that your misconduct while on active duty outweighed the mitigation evidence offered. Moreover, the Board was also not persuaded by your equity argument that had you been provided an opportunity for an administrative hearing, it might have resulted in a no basis finding or an Honorable discharge characterization recommendation. The Board found such contention without merit based upon the strength of the evidence of record in the NCIS investigation and the seriousness of the alleged misconduct committed. Conversely, the Board believed you received a substantial benefit of a GEN discharge without the risk of being recommended for a discharge under other than honorable conditions. Ultimately, the Board concluded the favorable factors you provided for consideration, even with the addition of your post-service clemency evidence, were insufficient to outweigh the seriousness of your misconduct, as evidenced by the witness statements documented in the NCIS investigation. While the Board acknowledged that flawless service is not required to receive an Honorable characterization of service, the nature and gravity of your misconduct led them to conclude that your service was not Honorable.

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,

3/23/2026

