



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

█
Docket No. 5241-25
Ref: Signature Date

█
█
█

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 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, 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 the Under Secretary of Defense Memo of 20 Sep 11 (Correction of Military Records Following Repeal of 10 U.S.C. 654).

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 on the evidence of record.

You enlisted in the U.S. Marine Corps and began a period of active duty on 27 August 1981. You were granted an enlistment waiver for one pre-service traffic infraction. On 10 January 1983, you received nonjudicial punishment (NJP) for being in an unauthorized absence (UA) status from your appointed place of duty. On 28 October 1983, you were issued administrative remarks retaining you in the Marine Corps while documenting your substandard performance, misconduct, unsatisfactory attitude and UA. On 25 January 1985, a Special Court-Martial (SPCM) convicted you of two specifications of failing to go to your appointed place of duty and

one specification of unauthorized absence (UA) which lasted 34 days.¹ You were sentenced to be confined at hard labor for 75 days, to forfeit \$150.00 pay per month for two months, and to be reduced in rank to E-1. On 15 May 1984, you received a second NJP for disobeying a lawful order. On 26 April 1984, you received a third NJP for possessing alcohol in a government vehicle. Documents in your official military personnel file (OMPF) also document two additional periods of UA; one totaling three days and another totaling four.² On 3 July 1984, after consulting with qualified legal counsel, you voluntarily requested an undesirable discharge, under Other Than Honorable (OTH) conditions, for the good of the service in lieu of trial by court-martial³. The separation authority approved your request, and you were so discharged on 27 July 1984.

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 Memo. These included, but were not limited to, your desire to upgrade your discharge consistent with the repeal of the “Don’t Ask, Don’t Tell” (DADT) policy. You contend that you were pressured into signing an Other Than Honorable (OTH) discharge in lieu of a court-martial after exposure of your sexual orientation. You believe you were targeted for being bisexual and, on one occasion, after attending a costume party off base dressed in underwear and a trench coat, you were seen by Shore Patrol in an area known for gay bars. This led to your detention and transport to the ██████████ jail before being returned to ██████████. Due to your sexuality, you were treated for sexually transmitted diseases (STDs) multiple times, you believe this affected your reputation in your unit. In addition, you lived in an open squad bay where keeping your sexual orientation secret was crucial. It was especially difficult for you to keep your sexual orientation secret given your religious parents; both of whom have since passed. Now that they are gone, you feel more comfortable addressing this matter and seek to have your discharge upgraded. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, DD Form 214, and other excerpts from your service record you provided.

Since you raised the issue to DADT, the Board considered the aforementioned memo addressing the policy repeal. The memo sets forth the Department of the Navy’s current policies, standards, and procedures for correction of military records following the DADT repeal of 10 U.S.C. 654. It provides service Discharge Review Boards with the guidance to normally grant requests to change the characterization of service to “Honorable,” narrative reason for discharge to “Secretarial Authority,” the separation code to “JFF1,” and the reentry code to “RE-1J,” when the original discharge was based solely on DADT or a similar policy in place prior to enactment of it and there are no aggravating factors in the record, such as misconduct.

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs, SPCM, and request to be discharged in lieu of trial by court-martial, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded your conduct showed a complete disregard for

¹ Although you were initially charged with dereliction of duty for failing to wear proper civilian or military attire while on off-base liberty—specifically, for wrongfully appearing in ██████████, wearing only underwear and a raincoat—the charge was subsequently withdrawn without prejudice.

² Your record does not include any disciplinary actions related to these unauthorized absence infractions.

³ Your record does not include the preferred charge sheet that formed the basis for your request.

military authority and regulations. The Board 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.

Finally, the Board determined that you are not entitled to relief under the DADT repeal guidance since there is no evidence you were discharged based solely on your sexual orientation and there are aggravating factors involving misconduct present in your record.⁴ Therefore, the Board determined that your discharge was proper and equitable under the standards of law and discipline and that the discharge accurately reflects your conduct during your period of service.

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,

1/12/2026

█

Executive Director

Signed by: █

⁴ The Board noted that your reason for separation and separation code are not consistent with an administrative separation for homosexual conduct. Should you possess evidence that you submitted your request to be discharged in lieu of trial by court-martial based on preferred court-martial charges for homosexual conduct, the Board encourages you to apply for reconsideration with such supporting evidence.