



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 2220

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Docket No. 5736-25
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 application 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 began a period of active duty on 4 September 2003. On 3 March 2004, you received nonjudicial punishment (NJP) for making a false official statement with the intent to deceive, malingering by intentionally feign a suicidal ideation and mental illness, and failure to report to muster. Consequently, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to commission of a serious offense; at which point, you decided to waive your procedural rights¹. Subsequently, your commanding officer

¹ You were processed for administrative separation through "Notification Procedures" which prevented your command from assigning you a discharge characterization of service of Other Than Honorable (OTH) conditions.

recommended you be separated with a General (Under Honorable Conditions) (GEN) characterization of service and the separation authority approved the recommendation. On 8 April 2004, you were so discharged.

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 for a discharge upgrade and contentions that: (a) you refused to turn in a fellow shipmate who was accused of doing something that got him in trouble, (b) you received a GEN discharge because you were assisting the mission while serving as a translator, (c) you were not given neither warning of any wrongdoing or a chance to plead your case to anyone. (d) you were not given the opportunity for an appeal or due process. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 without any additional documentation.

After 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 NJP, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the likely negative impact it had on the good order and discipline of your unit. Additionally, contrary to your contention that you were forced out by your command without any due process, the Board noted you were given the opportunity to exercise your procedural rights and you declined to do so. Therefore, the Board was not persuaded by your unsupported allegations of unfair treatment. Finally, the Board found no evidence, and you provided none, to substantiate your contention that you were discharged for failing to report misconduct. Rather, you were discharged for making a false official statement, malingering, and failing to report for duty. Ultimately, the Board determined you were fortunate to receive a GEN characterization of service based on the nature and severity of your misconduct.

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. 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

While this form of administrative separation processing limits the command from assigning an OTH characterization of service, in exchange, it eliminates a service member's rights to an administrative separation board. This type of administrative separation processing is only authorized for junior Sailors who meet specific requirements. While a service member processed under these regulations exchange certain due process rights for protection against OTH characterizations of service, they are still afforded most of the rights available to Sailors processed under Administrative Board proceedings including the right to consult with legal counsel, right to submit a written statement for consideration, and right to obtain copies of documents to be considered by the separation authority, and right to General Court-Martial Authority review. Your record indicates you waived all these rights.

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,

1/6/2026

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Executive Director

Signed by: █