



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

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Docket No. 5885-25  
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 5 January 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, 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 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.

This Board previously denied your request for an upgrade to your characterization of service on 15 May 2023 and 9 December 2024. 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 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 or change your narrative reason for separation to 'Secretarial Authority,' and to correct the Department of Veterans

Affairs (VA) “Unknown” character of service to reflect the upgraded discharge<sup>1</sup>. You contend that: (1) you faced reprisal for disclosing departmental negligence in 1987, leading to fabricated NJPs and a baseless larceny charge, which resulted in a General (GEN) Discharge being overturned to Other Than Honorable (OTH), (2) this Board’s 2023 denial letter inaccurately claimed that you blamed a pilot, (3) your 3.4 conduct average and post-service integrity contradict the misconduct grounds for separation, (4) background and procedural irregularities and violations, (5) the improper address for your denial letter resulted in \$3,500 in legal fees, (6) your exemplary service is reflected in your promotion to E-4 and AO2 recommendation, (7) your post-service Auxiliary Police and Fire Service, and (8) the Wilkie Memo supports equitable treatment in retaliation claims. Additionally, you referenced U.S. v. Excelitas in support of whistleblower protections and state your denied Department of Veterans Affairs (VA) benefits justify clemency. 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, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your three non-judicial punishments (NJP), outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that it 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<sup>2</sup>. Further, the Board noted you provided no evidence, other than your statement, to substantiate your contentions that your NJPs were the result of reprisal and not your misconduct. Moreover, the Board was not persuaded by your argument that your trait averages support a discharge upgrade. In reviewing your record, it appears you served without incident during your first three years of service, including receiving promotions, before committing a series of misconduct. Thus, the Board found it reasonable that your overall trait average would not accurately reflect your poor conduct and performance during your last four months of service. However, the Board determined your last four months of service, which involved three NJPs for multiple UCMJ violations, clearly support your administrative separation and assigned characterization of service. 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. Therefore, after the application of the standards and principles contained in the Wilkie Memo, the Board found that your reason for separation, assigned characterization of service, and reentry code remain appropriate.

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<sup>1</sup> The Board has no statutory authority to change your VA record. Therefore, the Board took no action on this aspect of your application.

<sup>2</sup> The Board considered your commanding officer’s comments in your administrative separation package that stated, “All attempts to counsel and effect positive attitude and behavior change have been met by further violations of UCMJ and deteriorating negative attitude. [Petitioner’s] behavior has been characterized by blatant disregard and contempt for authority. [Petitioner] has become an undesirable distraction to this command.”

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 error or an 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.

The Board determined there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC § 1034. 10 USC § 1034 provides the right to request Secretary of Defense review of cases with substantiated reprisal allegations where the Secretary of the Navy's follow-on corrective or disciplinary actions are at issue. Additionally, in accordance with DoD policy you have the right to request review of the Secretary of the Navy's decision regardless of whether your reprisal allegation was substantiated or non-substantiated. Your written request must show by clear and convincing evidence that the Secretary of the Navy acted arbitrarily, capriciously, or contrary to law. This is not a de novo review and under 10 USC § 1034(c) the Secretary of Defense cannot review issues that do not involve reprisal. You must file within 90 days of receipt of this letter to the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Office of Legal Policy, 4000 █

Your written request must contain your full name, grade/rank, duty status, duty title, organization, duty location, mailing address, and telephone number; a copy of your BCNR application and final decisional documents; and a statement of the specific reasons why you are not satisfied with this decision and the specific remedy or relief requested. Your request must be based on factual allegations or evidence previously presented to the BCNR; therefore, please also include previously presented documentation that supports your statements.

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,

1/16/2026

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