



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

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Docket No. 6281-25  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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.

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 9 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).

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 based on the evidence of record.

You enlisted in the U.S. Navy and began a period of active duty on 22 March 2001. Upon entry onto active duty, you were granted a waiver for two dependents. On 11 March 2005, you received non-judicial punishment (NJP) for larceny of military property of a value of about \$2,748.00. Consequently, you were notified of administrative separation processing for misconduct due to commission of a serious offense. After you waived your rights, the Commanding Officer (CO) directed that you be discharged with a General (Under Honorable Conditions) (GEN) characterization. Ultimately, you were so discharged on 11 May 2005.

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 you thought you were doing the right thing, you corrected the issue as soon as you were instructed to do so, you assumed you were allowed to collect BAH for dependent location as long as you were still paying the rent and your daughter lived there, and your wife temporary moved back with you to go to counseling. You further contend you requested BAH for the location of your dependents on the advice of your Chief since it was higher than ██████████ and less than \$200 a month. Lastly, you contend that your wife returned to live with you while you were going through marriage counseling and your daughter stayed living with your parents. The Board noted you checked the "Other Mental Health" box on your application but did not respond to the Board's request for supporting evidence of your claim<sup>1</sup>. 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 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 found that your conduct showed a complete disregard for military authority and regulations. Furthermore, the Board observed that you provided no evidence, other than your statement, to substantiate your contentions. Therefore, the Board determined the presumption of regularity applies to your administrative separation.

Moreover, the Board determined that an Honorable discharge was appropriate only if the member's service was otherwise so meritorious that any other characterization of service would be clearly inappropriate. Based on the circumstances of your administrative separation, the Board concluded your service did not meet that standard. In the end, the Board determined you already received a large measure of clemency from the CO since the offense for which you were separated would normally warrant an Other Than Honorable characterization.

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 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

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<sup>1</sup> The Board noted you provided a copy of your Department of Veterans Affairs rating decision but no additional medical or clinical evidence as requested by the Board in its 11 June 2025 letter.

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

