



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

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Docket No. 6394-25
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 12 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).

You originally enlisted in the U.S. Navy and began a period of active duty service on 19 September 1996. Your pre-enlistment physical examination, on 29 September 1995, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms. On 18 September 2000, you immediately reenlisted.

On 31 August 2003, you were involved in a motorcycle accident that resulted in the death of your passenger. While you were in civilian custody, you began a period of unauthorized absence on 2 September 2003. Your UA terminated on 15 September 2003 after you were released from █ County Jail on bond while facing charges of aggravated manslaughter and DUI.

The Command Investigation, dated 11 December 2003, opined in part, that: (a) your impairment due to alcohol and traveling a high rates of speed were the proximate cause of the accident, (b) you were willfully negligent in operating a motor vehicle while under the influence of alcohol, (c) you were willfully negligent in operating a motorcycle at a high rate of speed with an unsteady passenger on the back, and (d) your motorcycle was a very high performance bike with possible illegal modifications. The investigating officer's analysis of the accident scene indicated you were traveling in excess of 100 mph when the accident occurred. Your blood alcohol content was approximately 0.11. The Line of Duty/Misconduct determination, dated 1 March 2004 concluded that your injuries were incurred not in the line of duty and were due to your own misconduct.

On 5 April 2004, your command notified you of administrative separation proceedings by reason

of misconduct due to the commission of a serious offense. You elected your rights to consult with counsel, submit statements, and to request an administrative separation board (Adsep Board).

On 1 June 2004, an Adsep Board convened in your case. At the Adsep Board you were represented by counsel. Following the presentation of evidence and any witness testimony, the Adsep Board members unanimously found that you committed misconduct and should be separated, and by a majority vote determined that you should receive an under Other Than Honorable conditions (OTH) characterization of service.

On 7 June 2004, in the Circuit Court of the City of ██████████, you were convicted of aggravated involuntary manslaughter. The Court sentenced you to twelve (12) years of confinement but suspended six (6) years and one (1) month on the condition that you be on supervised probation for ten (10) years after your release from prison.

On 22 June 2004, your commanding officer (CO) recommended to the Separation Authority (SA) that you be discharged with an OTH discharge characterization. In his recommendation, your CO stated, in pertinent part:

On 31 August 2003, member was involved in a motor vehicle accident that resulted in the death of his passenger. On 7 June 2004, member was found guilty of aggravated involuntary manslaughter and sentenced to serve 12 years in the ██████████ State Penitentiary by the Circuit Court of the City of ██████████. Six years on[e] month of the sentence was suspended on the condition that he be on supervised probation for a period of ten years after his release from prison.

[Petitioner] historically is an average performer in his primary military duties. However, his off-duty conduct has been unsatisfactory. During the investigation, it was discovered that he had numerous recent serious vehicular citations, none of which the command was aware of. I can no longer justify [Petitioner's] access to classified material, nor his participation in the Personal Reliability Program. He is not a viable asset to the United States Navy and is not recommended for retention. I recommend that he be separated from the naval service by Reason of Misconduct - Commission of a Serious Offense, and that his characterization of service be Other Than Honorable.

On 9 August 2004, the SA approved and directed your separation for misconduct with an OTH discharge characterization. Ultimately, on 10 September 2004, you were separated from the Navy for misconduct with an OTH discharge characterization and assigned an RE-4 reentry code.

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)

to this very day, you regret what happened that night and have wished a thousand times for the outcome to have been different, (b) although you cannot change what happened that night, you are very remorseful for the sorrow and pain that was caused, (c) please give consideration to your advocacy/character letters from members in your community, and (d) because of the support and advice from your community/circle, you feel that it is time. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149 and the evidence you provided in support of your application.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious as to deserve a discharge upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH conditions is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Sailor. The Board determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your misconduct and reckless behavior involving the loss of life clearly merited your discharge. While the Board carefully considered the evidence you submitted in mitigation, 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. 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 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,

1/5/2026

