



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

Docket No. 7941-25
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

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 13 March 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, 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.

The following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

1. You enlisted in the Navy and began a period of active duty on 23 June 2000.
2. On 4 February 2003, pursuant to your guilty plea, you were convicted in the [REDACTED] Circuit Court for Crimes against Nature (for carnal knowledge of a minor). You were sentenced to five years of incarceration (suspended) and supervised probation for a year.
3. Consequently, you were notified of pending administrative separation proceedings by reason of misconduct due to a civilian conviction. You were informed that the least favorable

characterization of service you may receive is under Other Than Honorable (OTH) conditions. After you waived your procedural rights to consult with counsel and to request a hearing before an administrative discharge board, the commanding officer (CO) forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge from the Navy with an OTH character of service. As part of the CO's recommendation, he stated in pertinent part:

[Petitioner's] misconduct is a clear departure from behavior expected of a member of the naval service. His disregard for civil law is inconsistent with the Navy's Core Values and contradictory to good order and discipline. I strongly recommend an Other than Honorable discharge.

4. The SA approved the CO's recommendation and you were so discharged on 10 April 2003.

In your application to this Board, you express a desire for your discharge character of service be upgraded and contend that:

1. You are seeking a discharge upgrade to receive military benefits.
2. You are a standup citizen, completed your associate's degree, and have been given your rights back.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately processed for administrative separation based on your record of misconduct. The Board noted you pleaded guilty to the misconduct that formed the basis of your administrative separation and OTH discharge. Therefore, the Board determined the presumption of regularity applies to your administrative separation and no error exists with your record.

The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your desire for an upgrade to your characterization of service, your contentions, the totality of your service, your need for veterans' benefits, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your rehabilitation efforts, your post-service record of accomplishments, your candor and remorse, the evidence you provided in support of your application (including your restoration of rights by the State of ■), and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, the Board found your civil conviction for carnal knowledge of a minor to be especially aggravating. The Board found this conduct to be contrary to the good order and discipline of your unit and notably service discrediting. Therefore, even taking into consideration all the mitigation factors in your case, the Board found that your

misconduct while on active duty outweighed the mitigation evidence offered. Further, 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. While the Board considered your possible need for veterans' benefits, they determined the severity of your misconduct outweighed any mitigation resulting from that factor. Finally, the Board believed that it would be unjust to characterize your service in the same manner as the service of the thousands of service members who, unlike you, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. Therefore, the Board did not find an upgrade of your discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice. While the Board commends you for your post-service accomplishments and acknowledged the personal difficulties you have overcome as a result of your conviction, 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 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,

4/1/2026

