



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

[REDACTED] Docket No. 8216-25

Ref: Signature Date

[REDACTED]

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 18 September 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 terms of the settlement agreement in the case of *Farrell, et. al. v. U.S. Department of Defense, et. al.*, as implemented by the ASN (M&RA),¹ the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo), and the Under Secretary of Defense Memo of 20 Sep 11 (Correction of Military Records Following Repeal of 10 U.S.C. 654).

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 Navy after reporting that all prior debts had been erased through bankruptcy and that you had no current outstanding financial obligations. You were also interviewed regarding a DUI incident that occurred while you were in the Delayed Entry Program (DEP); which was subsequently reduced to the lesser offense of exhibition of speed. You then began a period of active duty on 26 May 1992. On 6 July 1992, a received financial counseling

¹ The terms of the settlement agreement pertains to a group of Sailors and Marines whose DD Form 214 reflects that they were discharged due to their sexual orientation with less than a fully Honorable characterization of service.

regarding your financial indebtedness. The counseling documents indicated you had overdrawn your bank account and you were counseled to set up a payment plan to the bank and only utilize cash for purchases. On 14 September 1993, you were notified that you were being recommended for administrative discharge from the Navy for the commission of a serious offense by reason of making and uttering worthless checks by dishonorably failing to maintain funds and failure to pay just debts. You elected your rights to consult with counsel and present your case to an administrative discharge board (ADB). On 5 October 1993, an ADB was convened and determined a preponderance of the evidence supported a finding of misconduct for commission of a serious offense. The ADB recommended that you be separated from the Navy with a General (Under Honorable Conditions) (GEN) characterization of service. Subsequently, your commanding officer forwarded this recommendation to the separation authority concurring with the ADB's recommendation adding:

[Petitioner] has displayed a pattern of excessive spending. His previous history of Chapter Seven Bankruptcy indicated a tendency of overobligating his assets. As Executive Officer, upon [Petitioner's] check-in I discussed sources of counselling if financial difficulties arose. Additionally, my predecessor, as Commanding Officer, counselled [Petitioner] on the consequences of failing to pay just debts in the military and warned him to exercise extreme care since financial irresponsibility would not be tolerated. Initially, [Petitioner's] financial status appeared solvent. However, the squadron soon received several letters of returned checks and overdrawn bank accounts. He was again counseled where he stated that he would resolve the problems immediately and there would be no further incidents.

Despite his statements to the contrary, [Petitioner's] financial mismanagement persisted. Further debt incurred as returned checks remained unpaid for over ten months. [Petitioner] then increased his financial obligations by purchasing expensive electronics equipment. Predictably, he failed to make the installment payments due on these purchases exceeding the prescribed payment period. Clearly, [Petitioner] is unable to manage his finances and refuses to take personal responsibility for his actions...

Ultimately, the separation authority approved the ADB's recommendation and you were so discharged on 17 December 1993.

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 and change your record consistent with the *Farrell* settlement agreement and the repeal of "Don't Ask, Don't Tell" (DADT) policy. You contend that: (1) you were discharged during the discriminatory era of the DADT and your discharge was based solely on your sexual orientation, (2) although DADT has since been repealed and the Department of Defense has acknowledged the harm done to LGBTQ+ service members, your record has never been corrected, (3) you served during the Gulf War with pride, dedication, and every intention of building a lifelong Navy career, (4) after a private, consensual relationship with another service member became known, despite you being in different branches and stationed at different bases, you were subjected to an investigation by your commanding officer and ultimately discharged, (5) the reasons listed to justify your discharge were administrative and unrelated to your performance or conduct, as they stemmed

from a bounced check from a bank transaction, the use of an approved anonymous ride service, and undergoing military-referred surgery, (6) at the time of your discharge you received a promotion and commendations from your commanding officers, (7) this experience has directly contributed to chronic depression, anxiety, and Post-Traumatic Stress Disorder (PTSD), conditions you continue to struggle with, and (8) despite these challenges, you have built a meaningful life as a classically trained chef and teacher, you hold a master's degree in Healthcare Administration, you have been married to your partner for over 25 years, and continue to serve your community with integrity. 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 it.

Since you raised the issue of DADT, the Board considered the aforementioned memo addressing the policy repeal. The memo sets forth the Department of the Navy's current policies, standards, and procedures for correction of military records following the DADT repeal of 10 U.S.C. 654. It provides service Discharge Review Boards with the guidance to normally grant requests to change the characterization of service to "Honorable," narrative reason for discharge to "Secretarial Authority," the separation code to "JFF1," and the reentry code to "RE-1J," when the original discharge was based solely on DADT or a similar policy in place prior to enactment of it and there are no aggravating factors in the record, such as misconduct.

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 failure to pay just debts, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard for military authorities 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 GEN 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.

Additionally, the Board determined you are not entitled to relief under the DADT repeal guidance since there is no evidence you were discharged based solely on your sexual orientation and there appears to be aggravating factor of misconduct present in your record². The Board also found that the Farrell class action settlement doesn't apply to your case since your discharge was not based solely³ on sexual orientation and your characterization of service does not fall within the scope of that agreement.

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 appreciates that you have led a successful life since your discharge,

² The Board considered that your reason for separation and separation code is not consistent with an administrative separation for homosexual conduct. The Military Personnel Manual contained specific articles that address the processing under DADT. Commission of a serious offense was not an authorized basis for separation in cases based solely on DADT.

³ The Board actually found no evidence to support your contention that you were investigated and processed for separation based on your sexual orientation. Should you possess such evidence, the Board recommends you request reconsideration with the supporting evidence.

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 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,

12/8/2025

