



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

██████████
Docket No: 8777-25
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.

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 15 May 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.

You previously applied to this Board for a discharge upgrade and were denied relief on 8 April 2022. In their decision, the Board unequivocally disagreed with any argument or suggestion that you were involuntarily held past your 31 May 2020 EAOS and wrongfully discharged with an Other Than Honorable (OTH) characterization of service. The Board found any such contentions entirely without merit and noted that, per MILPERSMAN Section 1160-050 paragraph 12, at all relevant times you remained on active duty even though you were technically beyond the date of your original EAOS. Due to your pending Summary Court-Martial (SCM) criminal proceeding, your command properly extended you beyond your original 31 May 2020

EAOS and lawfully retained on active duty for trial, punishment, and administrative separation. The Board noted that the administrative separation waiver pursuant to the Pre-Trial Agreement (PTA) was an integral part of the SCM criminal proceeding.

Prior to your initial application to this Board, on 8 June 2021, the Naval Discharge Review Board (NDRB) denied relief in your application for a discharge upgrade. The NDRB determined that your discharge was proper as issued and that no change was warranted. The NDRB rejected your contention that you were held past your EAOS to be administratively separated.

After this Board denied your initial application for relief, you reapplied to the NDRB for relief. On 20 September 2022, the NDRB granted you partial relief and upgraded your discharge characterization to General (Under Honorable Conditions) ("GEN"). The NDRB, contrary to their 2021 decision, concluded that you should not have been retained on legal hold and extended beyond your EAOS for your administrative separation proceedings.

In your application to this Board, you express a desire for your reentry code to be changed and contend that:

- You did go through a court martial, but your discharge did not come from the court martial.
- Your EAOS was a week after your court martial, which wasn't enough time for you to re-enlist.
- You were held a month past your EAOS and given an OTH discharge with an RE-4 re-enlistment code. Your discharge was upgraded to a General (UHC), but the re-enlistment code wasn't changed.
- You are working with a recruiter to come back in for the reserves, and the recruiter informed you that you have to have your re-enlistment code changed in order to make that happen.
- You were Machinist Mate while in working as an ACR tech in Engineering. Post-service you worked in the shipyards on the new JFK for three years. You ended up moving back home working as an HVACR Tech, which was the same job you had while on active duty, and you have not had any disciplinary actions in the civilian world since you were discharged.

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 and PTA. The Board noted you admitted to committing the misconduct that formed the basis of your SCM conviction, administrative separation, and OTH discharge. After a review of the evidence, this Board again concluded that, at all relevant times, pursuant to established Department of the Navy policy and regulations, that your command properly extended you beyond your original EAOS for trial, punishment, and administrative

separation. Therefore, the Board determined your originally assigned OTH discharge and assigned reentry code were appropriately assigned, 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 to change your reentry code, your contentions, the totality of your service to include service highlights, your desire to reenlist, your rehabilitation efforts, your post-service record of accomplishments, the evidence you provided in support of your application, 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 determined that the record clearly reflected your egregious misconduct involving the attempted exploitation of minor children was willful and indicated you were unfit for further service. Further, absent a material error or injustice, the Board declined to summarily change a reentry code solely for the purpose of enhancing employment opportunities, including military enlistments. 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. While the Board acknowledged your desire to reenlist, ultimately, the Board concluded a change to your reentry code is not warranted in the interests of justice.

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, _____

5/25/2026

