



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

██████████
Docket No. 9315-25
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 17 April 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 U.S. Navy and began a period of active duty service on 16 August 2006. Your pre-enlistment physical examination, on 28 February 2006, and self-reported medical history both noted no psychiatric or neurologic issues, symptoms, or history.
2. On 6 April 2007, your command issued you a "Page 13" retention warning (Page 13)

documenting certain deficiencies that included UCMJ violations of Articles 92 (failure to obey a lawful order), Article 95 (resisting arrest), and Article 134 (drunk/disorderly conduct). The Page 13 advised you that any further deficiencies in performance and/or conduct may result in disciplinary action and in processing for administrative separation. You did not elect to submit a Page 13 rebuttal statement.

3. On 11 April 2007, you received non-judicial punishment (NJP) for: (a) two (2) separate specifications of failing to obey a lawful order, (b) resisting arrest, and (c) drunk and disorderly conduct. You received the maximum permitted punishment. You did not appeal your NJP.

4. On 8 May 2007, you received NJP for: (a) failing to obey a lawful order, and (b) unauthorized absence. You did not appeal your NJP.

5. On 6 June 2007, you submitted a voluntary written request for an administrative discharge for the good of the service under Other Than Honorable conditions (OTH) in lieu of trial by court-martial for multiple specifications of willfully disobeying a lawful order. Prior to submitting this voluntary discharge request, you conferred with a qualified military lawyer, at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. You admitted you were guilty of your offenses as charged for purposes of submitting your request. You acknowledged that if your discharge characterization was OTH, that you may expect to encounter substantial prejudice in civilian life in situations wherein the type of service rendered in any branch of the Armed Forces, or the character of discharge received therefrom, may have a bearing. As a result of this course of action, you were spared the stigma of a court-martial conviction for your misconduct, as well as the potential sentence of confinement and the negative ramifications of receiving a punitive discharge from a military judge.

6. On 14 June 2007, the Separation Authority approved your voluntary discharge request in lieu of trial by court-martial. Ultimately, on 6 July 2007, you were separated from the Navy in lieu of a trial by court-martial with an OTH discharge characterization and assigned an RE-4 reentry code.

In your application to this Board, you express a desire for your discharge character of service be upgraded and that your reason for separation, separation code, separation authority, and reentry code be changed. You contend that:

1. Your DD 214 saying you were discharged under OTH conditions for the good of the military and unfit for consideration again makes you look really bad.

2. You joined the Navy because you wanted to serve, and now you must show your DD Form 214 when asked.

3. You got in trouble for drinking and look like some sort of criminal with the current listed information.

4. You were a stupid 18 year old kid, everyone was drinking around you all the time, and you knew you shouldn't, but you did anyway.
5. You admit that was dumb but your behavior was greatly affected by the environment, not that that is a good excuse.
6. You attribute your choices to your youth and lack of life experience. You fell into the trap of wanting to fit in, and that cost you your career.
7. Post-service you struggled to find your way but you have improved yourself greatly, and you haven't drank any alcohol in over a decade. You got married, had kids, and manage a \$3M company.
8. You are exploring other options, such as being a firefighter, so you can give back, but your separation and RE code are holding you back.
9. Being pushed out of your career with a black mark was harsh.

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 request to be discharged in lieu of trial by court-martial. The Board also noted you admitted to committing 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 to include service highlights, the non-violent nature of your misconduct, 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, the harshness of your punishment, 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 that your conduct showed a complete disregard for military authority 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 OTH 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. The Board also noted that you never completed your recruit training pipeline or made it to your first operational duty station. 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. Finally, the Board believed that it would be unjust to characterize your less than honorable 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. While the Board commends you for your post-service accomplishments and sobriety, ultimately, the Board concluded an upgrade of your discharge characterization of service is not warranted in the interests of justice. Based on the same rationale, the Board determined your reason for separation, separation authority, separation code, and reentry code also remain appropriate.

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,

4/21/2026

Executive Director

Signed by: _____