



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

█  
Docket No: 4653-21  
Ref: Signature Date



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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 20 September 2021. The names and votes of the panel members will be furnished upon request. Your request for clemency was 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, 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 enlisted in the U.S. Marine Corps and began a period of active duty on 10 May 1984. On 24 August 1985, you commenced a period of unauthorized absence (UA) until you surrendered on 25 August 1985. On 6 September 1985, you received non-judicial punishment (NJP) for your UA. On 14 November 1985, you received a second NJP for alteration of records and for pretend illness with the intent to avoid mess duty. On 29 October 1987, you were convicted by a General Court-Martial (GCM) of two specifications each of larceny and wrongful appropriation of calling cards. You were sentenced to confinement for two (2) years, forfeiture of \$400.00 pay per month for two (2) years, reduction to pay grade E-1, and a dishonorable discharge (DD). On 5 July 1988, you were denied clemency by the Naval Clemency and Parole Board. On 23 February 1989, you were discharged with a dishonorable characterization of service. On 9 April 2021, your case was heard at the Board for Correction of Naval Records (BCNR). You contended you always accepted responsibility for your actions but felt your discharge was too harsh and unjust.

You also asserted you read several DD cases and noticed these cases were more severe than yours. At the time the Board granted you clemency via a discharge upgrade from DD to a bad conduct discharge (BCD).

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 contentions that you have always accepted responsibility for your actions and the sentencing which was too severe. You added that you would like to keep moving forward with this process and move on from this only bad stain in your life, as evidenced by your desire to upgrade your discharge from a BCD to an honorable characterization of service. Additionally, the Board noted you did not submit new information to include advocacy letters or post-service documents to be considered for clemency purposes. The Board further noted clemency was granted during your last hearing. Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your two (2) NJPs and GCM, outweighed these mitigating factors. 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,

9/30/2021

█

Executive Director

Signed by: █