



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

■  
Docket No: 0290-22  
Ref: Signature Date



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 9 February 2022. 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).

You enlisted in the Navy and began a period of active duty on 18 August 1979. On 20 May 1980, you were convicted by civilian authorities of assault and battery. On 11 June 1980, you were again convicted by civilian authorities of shoplifting. On 25 July 1980, you were convicted by a special court-martial (SPCM) of five specifications of assault, four specifications of aggravated assault, and simple assault. You were sentenced to confinement, forfeiture of pay and a bad conduct discharge (BCD). The BCD was subsequently approved at all levels of review, and on 25 January 1982, you were so discharged.

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 desire to upgrade your discharge character of service and contentions that you have matured beyond your years, you are now 60 years of age, a law

abiding, and tax paying citizen that has been employed for 29 years as a Sergeant for the State of █ Public Safety.

For purposes of clemency consideration, the Board noted you did not provide a statement or supporting documentation describing post-service accomplishments, or advocacy letters. Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your two civilian convictions, SPCM conviction and subsequent BCD 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 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,

2/23/2022

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Executive Director  
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