



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

█  
Docket No: 6458-22  
Ref: Signature Date

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Dear █

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 28 September 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).

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 and began a period of active service on 24 July 1987. On 29 July 1988, you received non-judicial punishment (NJP) for 35 days of unauthorized absence (UA). Subsequently, you were counseled regarding your receipt of NJP, and notified further misconduct could result in the initiation of administrative separation proceedings.

On 10 April 1992, you reenlisted in the Navy for a period of four years. Subsequently, on 6 January 1993, you were convicted at a general court martial (GCM) for attempted larceny and two specifications of larceny. Your initial sentence was set aside by the Court of Military Review and a sentencing rehearing was conducted on 1 September 1993. You were eventually

sentenced to a Bad Conduct Discharge (BCD), reduction in rank, forfeiture in pay, and confinement. You were discharged, on 10 March 1995, with a BCD as a result of your court martial conviction.

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 for a discharge upgrade and to be issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for your Honorable period of service prior to your reenlistment. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

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 GCM conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. The Board determined, based on the gravity of the offenses charged in your case, your conviction and discharge characterization appropriately characterizes the misconduct for which you were convicted. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Sailor and continues to warrant a BCD characterization. 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 upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service.

Regarding your request for a new DD Form 214 to document your previous period of honorable service prior to your reenlistment, the Board noted that Block 18 of your DD Form 214 accurately documents your continuous honorable period of active service from 24 July 1987 to 9 April 1992. Therefore, the Board concluded a separate DD Form 214 is not warranted. 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,

10/20/2022

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Executive Director

Signed by: █