



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

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Docket No. 6286-23

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 17 November 2023. 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 this 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 20 September 1982. Between 16 September 1983 and 19 March 1984, you were absent without authorization (UA) on nine separate occasions, disobeyed a lawful order, and slept on watch. This resulted in your receipt of non-judicial punishment (NJP) three times which included a 30-day period of correctional custody at Treasure Island. About five months later, on 14 September 1984, you were UA and missed ship's movement. After surrender, you were flown to meet your ship at █ and taken to Special Court-Martial (SPCM) for your misconduct. As part of your sentence you were awarded a Bad Conduct Discharge (BCD). After appropriate legal review of your case and completion of your sentence, you were discharged with a BCD on 20 October 1988.

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 change your discharge character of service in

order to pursue veterans' benefits, and your contentions that: (1) you joined the Navy in September 1982, were sent to the █ in 1983, and were assigned to the █, where 60% of the Sailors you hung around were negative about the Navy, (2) you then cruised with the ship from █ to █ where one of the Sailors in your division had a car. On pay days you piled into it and stayed gone until the money ran out. After too many times of doing this, you ended up in Correctional Custody on █ (3) after release from custody, you met a nurse from █ Navy Base at the bar on base. You were 19, and she was 26. Before █ deployed, she told you she was pregnant. You panicked, didn't know what to do, and missed ship's movement, (4) after 27 days you surrendered, were flown out to meet the ship, and were court-martialed at █ and (5) you met the nurse on May 22, 1984, your son was born May 22, 1985, and the nurse died of cancer in 2012. You wish you'd had some good counseling and wise advice during those times. For purposes of clemency and equity consideration, the Board noted you provided a personal statement.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct, as evidenced by your NJPs and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and concluded that it showed a complete disregard of military authority and regulations. The Board also considered the negative impact your conduct likely had on the good order and discipline of your unit. Therefore, the Board concluded your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service, which was terminated by your BCD. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant a BCD. 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 granting you the relief you requested or granting relief as a matter of clemency or equity. Accordingly, given the totality of the circumstances, the Board determined 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,

11/21/2023

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