



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

██████████  
Docket No. 8080-23  
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 8 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 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 U.S. Marine Corps and began a period of active duty on 25 July 1989. Upon entry onto active duty, you were granted a waiver for illegal use of a controlled substance while in the Delayed Entry Program.

On 31 July 1991, you received non-judicial punishment (NJP) for failure to go to you appointed place of duty, having an unauthorized false pass by having two identification cards with one having a fraudulent birthday and drunk driving. On 5 November 1991, you were issued a counseling warning for your dereliction of duty by not correctly auditing service record books.

Then on 12 December 1991, you received your second NJP for failure to go to your appointed place of duty, and failure to obey an order by driving on base while on suspension. On 6 February 1992, you received your third NJP for 23 hours unauthorized absence (UA). On 17 March 1993, you were convicted at general court-martial (GCM) for making a false official statement to a NCIS agent, larceny of an armed forces identification, falsely making drafts of 16 checks drawn upon Navy Federal Credit Union, false official statement, and operating a vehicle while drunk. You were sentenced to confinement, forfeiture, and a Dishonorable Discharge (DD).

On 27 August 1993, the Naval Clemency and Parole Board recommended mitigating the DD to a Bad Conduct Discharge (BCD). On 6 December 1993, they forwarded their recommendation and recommend you be offered Department of Veterans Affairs treatment for alcohol. On 22 July 1994, the Navy Appellate Leave activity sent you a letter offering you 30-day inpatient treatment at a VA Hospital prior to discharge. After completion all levels of review, you were discharged, on 17 October 1994, with a 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 desire for a discharge upgrade and contentions that you suffer from severe PTSD due to your service, you couldn't talk about what you witnessed, because looking back, you realized you were shell shocked and feel like a shell of a human being and that began your running for years to come, you turned to alcohol to ease your stress and anxiety, your current discharge is holding you back, and when you went to the VA to get help they stated your discharge is a hindrance on you getting help through the VA. Additionally, the Board noted you checked the "PTSD" and "Other Mental Health" boxes on your application but did not respond to the Board's 3 October 2023 letter requesting for supporting evidence for your claims. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and 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. Further, the Board concluded that 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 separation with a BCD. Furthermore, the Board determined that you already received a large measure of clemency when your DD was upgraded to a BCD. Additionally, 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. Finally, the Board noted you provided no evidence to substantiate your contentions. 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 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,

11/19/2023

