



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. 9561-23
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 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, 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 Marine Corps and began a period of active duty on 29 May 1985. Upon your enlistment, you acknowledged experimental use of marijuana. On 5 August 1986, you were convicted by summary court martial for consuming alcoholic beverages in the barracks, failure to shave prior to work, and five instances of unauthorized absence (UA) from appointed place of duty. You were found guilty and sentenced to confinement at hard labor for a period of 20 days, and forfeiture of pay in the amount of \$300.00 for a period of one-month. On 18 March 1988, you were convicted by general court martial (GCM) for stealing two gold rings of value of \$680.00, intent to defraud by falsifying someone's signature, 25 instances of writing checks with

insufficient funds adding to the total amount of \$4,238.52, making false statements, and intent to defraud. You were found guilty and sentenced to a Bad Conduct Discharge (BCD), reduction to the inferior grade of E-1, forfeiture of all pay, and confinement for 20 months. After completion of all appellate review, on 20 July 1989, you were discharged 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: (a) you acknowledged the poor immature choices you made as a young man, (b) you had no idea how your discharge would have lifelong repercussions, and (c) you are currently ill and in need of medical attention. For purposes of clemency and equity consideration, the Board noted you did not submit 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 SCM and GCM, outweighed these mitigating factors. In making this finding, the Board found that your conduct showed a complete disregard for military authority and regulations. Additionally, the Board considered the likely negative impact it had on the good order and discipline of your unit. 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 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 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 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 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,

12/5/2023

