



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

█  
Docket No. 312-24  
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 29 March 2024. 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. Navy and began a period of active duty service on 13 January 1988 at age thirty-one (31). Your pre-enlistment physical examination, on 10 September 1987, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms. At the time of your enlistment, you were married and had one dependent daughter, despite denying ever being previously married on your enlistment application. You also expressly denied as part of your enlistment application to being subject to any court order or judgment in effect that directed you to provide support for children or alimony.

On 20 May 1988, the ██████████ sent a letter to your current command with a copy of a court order requesting assistance to set up an allotment to collect delinquent child support. You had previously entered into a Consent Order (CO) in ██████████, in November 1985, to provide child support for two children from a previous marriage.

On 27 July 1988, your command notified you that you were being processed for an administrative discharge by reason of defective enlistment and induction due to fraudulent entry into the Navy as evidenced by your deliberate concealment of a prior marriage and court-ordered support of a dependent. On 1 August 1988, you waived your rights to consult with counsel and to submit a written statement for consideration. At such time you did not object to your separation with a General (Under Honorable Conditions) (GEN) characterization of service. In the interim, your separation physical examination, on 5 August 1988, did not note any neurologic or psychiatric conditions or issues. In his separation recommendation your commanding officer stated, in part, the following:

[SNM] was processed for separation due to his deliberate concealment of a prior marriage and court ordered support of a dependent. This information came to light when a letter was received from the Department of Social Services ordering [SNM] to pay his court ordered support and the arrearages. After counseling [SNM] it was learned that not only did he owe for child support, but he was over \$20,000 in debt to various creditors.

Ultimately, on 9 August 1988, you were discharged from the Navy for a fraudulent entry with a GEN discharge characterization and assigned an RE-4 reentry code.

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 joined the Navy in 1988 after going through a difficult separation/divorce, (b) you enjoyed your time in the Navy but, because of the financial responsibility you were faced with from your divorce, you requested a discharge, and (c) in the twilight of your life you wanted to correct your discharge to no longer have a tarnished record. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. The Board determined that your Navy service records and DD Form 214 maintained by the Department of the Navy contained no known errors. Based on your factual situation and circumstances at the time of your discharge, the Board concluded that your command was justified separating you for a fraudulent enlistment.

The Board noted that a fraudulent enlistment occurs when there has been deliberate material misrepresentation, including the omission or concealment of facts which, if known at the time, would have reasonably been expected to preclude, postpone, or otherwise affect a Sailor's eligibility for enlistment. The Board determined that you had a legal, moral, and ethical

obligation to remain truthful on your enlistment paperwork. The Board determined the record clearly reflected that your deliberate concealment of certain material facts regarding your personal/marriage history and court-ordered legal obligations was willful and intentional and demonstrated you were unfit for further Navy service. The Board also concluded that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should otherwise not be held accountable for your actions.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your pre-service intentional concealment of certain material facts clearly merited your GEN discharge and no higher. 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,

4/3/2024

