



**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. 2930-24  
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 24 May 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 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 commenced a period of active duty on 4 February 1980. Between 27 May 1981 to 17 February 1982, you received non-judicial punishment (NJP) on three occasions for four specifications of unauthorized absence, two specifications of violation of a lawful regulation (possession of cocaine and Quaalude), assault, willfully disobeying a lawful command, and failure to obey a lawful order of a Superior Petty Officer. During the aforementioned period you were also convicted at special court martial (SPCM) for two specifications of willfully disobeying a lawful order.

On 17 February 1982, you received your third NJP for UA and two specifications of failure to obey a lawful order. On 13 May 1982, you were convicted by a SPCM for six specifications of UA. You were sentenced to a Bad Conduct Discharge (BCD), forfeiture of pay, and confinement. On 23 May 1983, you were discharge with a BCD as a result of your SPCM 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 to upgrade your characterization of service and contentions that you were young and lacked intelligence, were charged for 13 days of UA and served your punishment, and your pre-trial agreement (PTA) only allowed for an Other Than Honorable characterization. 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 these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and SPCMs, 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 noted you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct. Finally, the Board was not persuaded by your contention that you had a PTA that only allowed for an OTH characterization of service. The Board considered that you provided no evidence, other than your statement, to substantiate your contention and noted that an OTH discharge is an administratively awarded characterization of service that is not authorized as a sentence at a court-martial. Therefore, the Board determined your contention regarding your PTA to be implausible. Finally, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board determined the evidence you submitted was insufficient to overcome the presumption of regularity in your case.

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 Memos 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,

6/16/2024

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