



**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. 7616-24  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 30 September 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, 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 19 February 1985. On 13 May 1986, you were counseled concerning disrespect towards a superior officer and provoking speeches or gestures towards a fellow shipmate. You were advised that further deficiencies in performance and conduct could result in disciplinary action and in processing for administrative separation.

On 4 November 1986, you received nonjudicial punishment (NJP) for willfully disobeying a superior commissioned officer and communicating a threat. Consequently, you were counseled concerning the aforementioned offenses and advised that further deficiencies in performance or conduct may result in disciplinary action and in processing for administrative separation. On 21 January 1988, you were honorably discharged by reason of immediate reenlistment. On 22 January 1988, you began a second period of active duty.

On 6 May 1988, you received a NJP for disrespect towards a superior commissioned officer and using provoking speeches and gestures towards a shipmate. Between 25 August 1988 and 12 January 1989, you had two periods of unauthorized absence (UA) totaling 175 days and resulted in your conviction by special court martial (SPCM). Consequently, you were sentenced to a Bad Conduct Discharge<sup>1</sup> (BCD), reduction in rank, and a period of confinement. After completion of all levels of review, you were so discharged on 27 December 1989.

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 contention that: (a) the command never understood the circumstances of your decisions, (b) you assumed that you would receive an Other Than Honorable discharge characterization, (c) your military service was not as bad to warrant a dishonorable discharge, (d) you received good awards and loved the Navy, (e) you were going through some emotional things; specifically, that your shipmate and best friend slept with your wife and started to stay with her while you were in confinement, (f) having a better discharge characterization would allow you to contribute to your country, (g) you would do anything just to go back and erase this error in judgment. 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 NJP and SPCM, 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 considered the likely negative effect your conduct had on the good order and discipline of your unit. The Board also noted you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct. Finally, the Board noted you provided no evidence, other than your personal statement, 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 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

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<sup>1</sup> The Board noted in your application that you request to have your “dishonorable” discharge changed. The Board found no evidence in your record of a dishonorable discharge. As explained in the chronology, you were assigned a Bad Conduct Discharge (BCD) as part of your SPCM sentence. A Dishonorable Discharge is a more severe punitive discharge only authorized as part of a General Court Martial sentence and is distinctly different from a BCD.

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,

10/23/2024

