



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. 8181-24
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 6 January 2025. 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 active duty on 25 January 1999. On 20 November 2002, you received an Honorable (HON) discharge followed by immediate reenlistment. On 28 July 2006, you pleaded guilty at General Court-Martial (GCM) to violating Article 81 of the Uniform Code of Military Justice (UCMJ) by conspiring with another sailor to commit bank fraud and aggravated identity theft, to Article 107 of the UCMJ by making a false official statement to the Naval Criminal Investigative Service, and to Article 134 by attempting to commit bank fraud and steal another's identity. You were convicted according to your pleas and sentenced to confinement for 30 months, forfeiture of all pay and allowances, reduction to paygrade E1, and a Dishonorable Discharge.

On 27 August 2007, the appellate court affirmed the findings and sentence. On 14 December 2007, you were so discharged.

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 change your narrative reason for separation and reentry code to correspond with Secretarial Authority. You contend that nearly twenty years have passed since your discharge, the ongoing stigma of your discharge has satisfied its punitive purpose, and it would be inherently unjust to let the stigma continue for the rest of your life. You further contend you were a good sailor prior to your misconduct and have worked to make a positive difference in your community since your discharge; as evidenced by your commendable post-service work history and a letter for support from a coworker and friend of over 20 years. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application; including your legal brief, advocacy letter, Department of Veterans Affairs benefits letter, and mortgage statement.

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 GCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it concerned attempted fraud involving a bank and another individual. The Board determined such conduct is without honor, renders members unfit for duty, demonstrates complete disregard for the law, and shows a disregard for the possible consequences of such misconduct on victim of fraud and identity theft.

As a result, the Board concluded your service continues to warrant the Dishonorable Discharge you were awarded at trial. Although the Board acknowledges your favorable post-trial conduct, 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. 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,

2/3/2025

