



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

██████████  
Docket No. 8677-24  
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 15 November 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 to 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 after receiving a waiver for pre-service arrests for vandalism and burglary, and began a period of active duty on 13 September 1986. On 29 July 1987, you were subject to nonjudicial punishment (NJP) for a violation of the Uniform Code of Military Justice (UCMJ) under Article 86 for being absent without authority for a period of approximately 38 hours. On 21 September 1987, you absented yourself without authority again and remained absent until 28 March 1988, when you were apprehended by civilian authorities and returned to military control. You were tried before Special Court-Martial (SPCM) on 20 June 1988 and convicted on two violations of the UCMJ, to include Article 86, for your period of unauthorized absence terminated by apprehension and Article 89 for disrespect toward a superior officer. Your sentence included reduction to the lowest paygrade of E-1, 90 days of confinement with concurrent forfeitures of pay, and a Bad Conduct Discharge. Your punitive discharge was executed following appellate review of the findings and sentence of your trial proceedings, and you were so discharged on 30 March 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 to upgrade your punitive discharge and your contentions that you developed a drinking problem during your time in the Navy which “got worse during [your] tours of ██████████.” You state that you were experiencing “mental issues being away a lot on deployment” which put a strain on your relationships. You drank too much one weekend while on leave, did not want to give up that feeling, and continued to drink. You were eventually caught and taken back, were not in your right mind at the time, know you made a big mistake, and believe you served honorably prior to that point. Additionally, the Board noted you checked the “PTSD” and “Other Mental Health” boxes on your application but chose not to respond to the Board’s request for supporting evidence of your claims. 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 the potentially mitigating factors you submitted for consideration 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. Additionally, there is no precedent within this Board’s review, for minimizing the “one-time” isolated incident. As with each case before the Board, the seriousness of a single act must be judged on its own merit, it can neither be excused nor extenuated solely on its isolation. Further, the Board noted that, although one’s service is generally characterized at the time of discharge based on performance and conduct throughout the entire enlistment, the conduct or performance of duty reflected by only a single incident of misconduct may provide the underlying basis for discharge characterization. Finally, the Board observed that you were provided an opportunity to correct your conduct deficiencies but chose to continue to commit misconduct, which led to your BCD.

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 is attached 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,

12/10/2024

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