



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

██████████  
Docket No. 9033-24  
Ref: Signature Date

████████████████████  
████████████████████  
████████████████████

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 13 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 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).

You enlisted in the Navy and commenced active duty on 12 February 1990. On 16 October 1994, you were convicted at General Court-Martial (GCM) of violating Article 80 of the Uniform Code of Military Justice (UCMJ) – attempted murder by act inherently dangerous to others, Article 81 of the UCMJ – conspired to commit aggravated assault, Article 128 of the UCMJ – committed an aggravated assault, and Article 134 of the UCMJ – wrongfully discharging a firearm. You were sentenced to reduction in paygrade to E1, forfeiture of all pay and allowances, confinement at hard labor for two years, and a Dishonorable Discharge (DD). Following appropriate legal review of your conviction and sentence, and your release from confinement, you were discharged on 18 November 1997.

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 discharge and contention that a retrial was held, your sentence was set aside, and that the incident happened over 25 years ago.

For purposes of clemency and equity consideration, the Board noted you did not provide and advocacy or documentation describing post-service accomplishments.

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 conviction, outweighed these mitigating factors. In making this finding, the Board considered the serious nature of your conviction and found that your conduct showed a complete disregard for military authority and regulations. Additionally, the Board found no evidence that your case was retried or your sentence set aside. The Board noted you provided no evidence, other than your statement, to substantiate your contentions regarding your GCM. Finally, the Board determined it was unable to grant you the relief requested based solely on the passage of time.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant a DD. 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. For the specific purpose of your case, new matters might include evidence in your possession of a retrial or evidence your sentence was set aside. On the matter of clemency, new matters might include evidence of your post-discharge accomplishment and/or letters of advocacy attesting to your accomplishments and/or good character. That said, 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,

2/4/2025

