



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. 11293-24
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 24 February 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, 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Marine Corps and began a period of active duty on 22 April 1996. On 19 November 1996, you received nonjudicial punishment (NJP) for theft by stealing a total of \$280.00 from a fellow Marine. On 27 January 1997, you received a second NJP for wrongfully and without authority wear upon your uniform the ribbon representing combat action. Between 20 March 1998 and 2 May 1998, you commenced two periods of unauthorized absence (UA) totaling 42 days and resulting in your apprehension by civil authorities. On 14 May 1998, you were convicted by special court martial (SPCM) for two instances of UA and sentenced to a Bad

Conduct Discharge (BCD), reduction in rank, and a period of confinement. After completion of all levels of review, you were so discharged on 13 April 1999.

Post-discharge, you applied to the Naval Discharge Review Board (NDRB) for relief. The NDRB denied your request, on 2 October 2007, after determining your discharge was proper as issued. On 27 July 2010, this Board denied your initial request for a discharge characterization upgrade.

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) your discharge was attributed to Post Traumatic Stress Disorder (PTSD) due to harassment, (b) you were harassed to the point that you decided to go UA, (c) you noticed that what you did was wrong and returned to take your punishment, (d) you were accused by a lance corporal of stealing money from your roommate, (e) you were hit by your lance corporal, which cause you to defend yourself by beating him up, (f) you completed your punishment and bounced back to become a team leader, (g) you had to stand in formation in an orange suit and shackles, were busted to private, and got a BCD, (h) you served as a firefighter and an EMT for a period of six years, (i) you were not selected for two jobs due to your characterization of service. Additionally, the Board noted you checked the "PTSD" box on your application but chose not to respond to the Board's request for supporting evidence of your claim. For purposes of clemency and equity consideration, the Board also noted you provided copies of your personal statement and a letter to your congressional representative.

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 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. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct, which led to your BCD. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. Additionally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities. Finally, the Board noted you provided no evidence, other than your statement, to substantiate your contentions. Therefore, the Board was not persuaded by your arguments of unfair treatment.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. While the Board carefully considered the evidence you submitted in mitigation, 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 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 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,

3/19/2025

