



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

██████████
Docket No. 11601-24
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 10 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, 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues 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 U.S. Marine Corps and began a period of active duty on 23 August 1994. On 6 February 1995, you were counseled for being in an unauthorized status and travelling beyond the boundary limits on a regular weekend liberty. On 13 April 1995, you received nonjudicial punishment (NJP) for a 24-day period of unauthorized absence (UA). On 13 December 1995, a special court-martial (SPCM) found you guilty of a period of UA totaling 120 days and sentenced you to 45 days of confinement at hard labor, reduction in rank to E-1 and a Bad Conduct Discharge (BCD). Your BCD was ultimately ordered to be executed and you were so discharged on 7 April 1997.

The Board carefully considered all potentially mitigating factors to determine whether the interest 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 your contentions that: (1) your son almost died in a car crash, (2) your request to be transferred to MEPS (Military Entrance Processing Station) in [REDACTED] to be closer to your son was denied, (3) you were a kid (17-18 years old), and (4) at the time of your discharge you did not believe your discharge characterization was important but you now understand that it is and your decisions at the time are hurting you. Additionally, the Board noted you checked the "Other Mental Health" box on your application. In response to the Board's request for additional evidence in support of your claim, you stated that you do not have mental health issues. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of what you stated on your DD Form 149 and the aforementioned response to the Board's inquiry without any additional documentation for the Board's consideration.

After a thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined 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 concluded that it showed a complete disregard for military authority and regulations. Additionally, the Board noted you were provided an opportunity to correct your conduct deficiencies during your service but you continued 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. Therefore, the Board concluded that your discharge was proper and equitable under standards of law and discipline and that the discharge accurately reflects your conduct during your period of service.

As a result, 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,

3/10/2025