



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

██████████
Docket No. 12127-24
Ref: Signature Date

████████████████████
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Dear ██████████

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 31 March 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 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 and, after a brief period of active duty, accepted a commission as an active duty officer in the U.S. Navy Reserve. You began your commissioned service on 25 July 1989.

On 8 October 1991, charges for offenses under the Uniform Code of Military Justice (UCMJ) were sworn against you under Articles 93, 128, 133, and 134. The charges and specifications included the following allegations:

- violation of Article 93, in that you, on many occasions between April and September of 1991, were cruel toward and did oppress and maltreat a boatswains mate second class, subject to your orders, by assaulting him, humiliating him, inappropriately assigning him extra duties, and threatening him;

- violation of Article 128, in that you committed assault upon a boatswains mate first class by striking him in the head with a gallon sized ██████████ bottle, a means likely to produce death or grievous bodily harm;

- violation of Article 133, specification 1, in that you made derogatory comments of a racial nature to subordinates on several occasions between April and September of 1991;

- violation of Article 133, specification 2, in that you fraternized with junior enlisted members at the "All Hands" club by encouraging them to call you by your first name and by encouraging them to overindulge in the consumption of alcohol;

-violation of Article 134, specification 1, in that you unlawfully entered the dwelling house of a boatswain mate second class on or about 24 August 1991;

- violation of Article 134, specification 2, in that you fostered and facilitated the underage consumption of alcoholic beverages by subordinates, in violation of Hawaii criminal law, which conduct was prejudicial to good order and discipline and of a nature to bring discredit upon the Armed Forces; and,

- violation of Article 134, specification 3, in that, on or about 13 May 1990, you committed an indecent assault upon a boatswains mate second class, a person not your spouse, by rubbing your foot on his groin with intent to gratify your lust or sexual desires.

On 26 December 1991, after consultation with qualified legal defense counsel, you submitted a voluntary request for an unqualified resignation for the good of the naval service and to escape trial before General Court-Martial (GCM). In this request, you acknowledged that the basis for your request stemmed from misconduct as documented in the charges preferred against you. You further indicated that you understood the elements of the offenses with which you were charged, that you were satisfied with your legal counsel, and that your request was submitted voluntarily without duress or promises of any kind. In your request, you admitted to guilt for Article 92, cruelty and maltreatment, except for the words "assaulting him, humiliating him," Article 80, an attempt, as a lesser included offense of specification 2 of charge under Article 133, Article 128, assault, except for the words "with a means likely to produce death or grievous bodily harm," and Article 134, specification 1, unlawful entry.

In favorably endorsing your request to resign in lieu of trial by GCM, on 29 January 1992, the Chief of Naval Personnel assessed that there were no positive attributes which outweighed the seriousness of your misconduct. This recommendation was approved by the Assistant Secretary of the Navy (Manpower and Reserve Affairs) and you were discharged under Other Than Honorable conditions on 29 May 1992.

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 contentions that your doctor has left private practice to accept a position with the ██████████ Department of Veterans Affairs (VA) and you wish to be able to access VA health care benefits to permit continuity of care because of your medical condition and his specialty area of practice. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your petition without any other additional documentation.

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 resignation request, 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 that your personal statement did not address the nature of the offenses which resulted in your resignation to escape trial and you did not submit evidence of post-discharge character or rehabilitation for consideration of a potential grant on the basis of clemency factors. The Board found that, as an officer, you were afforded special trust and confidence to lead and mentor the enlisted Sailors under your charge; which you admittedly violated by the actions to which you admitted your guilt. Maltreatment of a subordinate, assault of a subordinate, and unlawful entry into the dwelling house of a subordinate constitute serious offenses which reflect a substantial departure from the conduct expected of a naval officer. Finally, 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.

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. 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,

4/17/2025

