



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

██████████
Docket No. 84-25
Ref: Signature Date

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Dear Petitioner:

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 7 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).

You enlisted in the U.S. Navy and began a period of active duty service on 12 July 1993. Your enlistment physical examination, on 20 January 1993, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms.

On 28 October 1993, you commenced a period of unauthorized absence (UA) that terminated on 29 October 1993. On 10 December 1993, you commenced a period of UA that terminated on 10 January 1994.

On 20 April 1994, you were convicted at a Special Court-Martial (SPCM) of: (a) your two separate UA offenses, (b) the larceny of an \$865 money order, a \$450 watch, and \$100 in cash, and (c) breaking restriction. The Court sentenced you to confinement for four (4) months, forfeitures of pay, and a discharge from the Navy with a Bad Conduct Discharge (BCD). The

Convening Authority approved the SPCM sentence as adjudged but suspended any confinement in excess of sixty (60) days. Upon the completion of SPCM appellate review in your case, on 13 February 1995, you were discharged from the Navy with a BCD and were assigned an RE-4 reentry code.

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 contentions that: (a) you made the mistakes that were listed in your court-martial, (b) you wish that you were punished and given the opportunity to continue your military service to have a 20-year career, (c) it was an injustice to spend all that time molding you into a sailor and then to just kick you out for a stupid mistake, (d) you acted out and messed up, (e) you were dealing with being physically abused your entire childhood and have since received therapy, (f) post-service you have started a non-profit, graduated from college, and had a career in human resources, (g) you mentor young men and youth, (h) you feel that you received disproportionate punishment in that the BCD was disproportionately harsh compared to the offense, (i) you have maintained a clean criminal record, and a progressive and steady career as a certified human resources leader, and (j) you have been very active with community involvement and have truly turned your life around. Additionally, the Board noted that you checked the "Other Mental Health" 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 considered the totality of the evidence you provided in support of your application.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe that your record was otherwise so meritorious to deserve an upgrade. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined the record reflected that your misconduct was intentional and willful and demonstrated you were unfit for further service. The Board also determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions.

The Board noted that, although it cannot set aside a conviction, it might grant clemency in the form of changing a characterization of discharge, even one awarded by a court-martial. However, the Board concluded that despite your contentions this was not a case warranting any clemency as you were properly convicted at a SPCM of serious misconduct. The simple fact remained is that you left the Navy while you were still contractually obligated to serve and you went into a UA status on two separate occasions without any legal justification or excuse for a total of 32 days. Further, you were involved in larceny offenses and broke restriction.

As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your cumulative 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 cumulative 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 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,

2/27/2025

