



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

██████████
Docket No. 1038-25
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 21 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 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. Marine Corps and began a period of active duty service on 14 June 1982. Your enlistment physical examination, on 14 July 1981, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms.

On 19 January 1983, your command issued you a "Page 11" warning (Page 11) for failing to be at your appointed place and time. The Page 11 advised you that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

On 3 November 1983, pursuant to your guilty pleas, you were convicted at a Special Court-

Martial (SPCM) of five (5) separate specifications of indecent acts or liberties with minors. You were sentenced to confinement for 160 days, a reduction in rank to Private (E-1), forfeitures of pay, and to be discharged from the Marine Corps with a Bad Conduct Discharge (BCD).

On 27 December 1983, the Convening Authority (CA) approved the SPCM sentence as adjudged. On 29 February 1984, the U.S. Navy-Marine Corps Court of Criminal Appeals affirmed the SPCM findings and sentence as approved by the CA. Upon the completion of SPCM appellate review in your case, you were discharged from the Marine Corps with a BCD and assigned an RE-4 reentry code on 5 April 1984.

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 included in a personal letter accompanying your petition. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application; which consisted solely of the letter you included with your petition without any other additional documentation.

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 egregious 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 also noted that, although it cannot set aside a conviction, it might grant clemency in the form of reinstatement to service, or 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. Finally, the Board noted you provided no evidence, other than your statement, to substantiate your contentions. Therefore, the Board determined the presumption of regularity applies with your SPCM conviction.

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.

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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,

3/31/2025

[REDACTED]