



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

██████████
Docket No. 1614-25
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 14 May 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. Navy and began a period of active duty on 7 September 1983. On 16 January 1986, you received non-judicial punishment (NJP) for disobeying a lawful order. Subsequently you were issued a counseling warning and advised that subsequent violations of the UCMJ or conduct resulting in civilian conviction could result in an administrative separation. You were issued a second counseling warning, on 3 June 1986, for personal conduct detrimental to the good order and discipline and advised again that subsequent violations of the UCMJ or conduct resulting in civilian conviction could result in an administrative separation.

On 28 April 1988, you received your second NJP for insubordinate conduct and reckless driving. On 24 June 1988, you were convicted by a special court-martial (SPCM) for willfully and

maliciously set on fire to ██████████, knowing that a human being was therein at the time, and causing damage to government property. You were sentence to confinement, reduction in rank, forfeiture of pay and a Bad Conduct Discharge (BCD). After completion all levels of review, you were so discharged on 4 May 1989.

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 so you may be eligible for veterans' benefits and contentions that you regret what you did, your conduct was really stupid and dangerous, you did not intend to harm anyone, and you served enough punitive time after 38 years of not being recognized as a veteran. 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 two photos, without any additional documentation for the Board's consideration.

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. The Board was not persuaded by your attempt to mitigate your misconduct by arguing that the reason for your misconduct was to gain attention during a normal routine boring shift and the only thing that was destroyed was a soap dispenser after you put out the flames. The Board agreed with the court-martial that your conduct warranted a BCD based on the severity of your arson and the fact you had a history of minor offenses that supported your punitive separation from the Navy. The Board also noted that there is no provision of federal law or in Navy/Marine Corps regulations that allows for a discharge to be automatically upgraded after a specified number of months or years. 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 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,

5/28/2025

