



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

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Docket No. 3970-25
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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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 18 August 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, 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 Marine Corps and began a period of active duty on 16 January 1993. On 7 March 1994, you were counseled concerning your failure to be at your appointed place of duty. You were advised that failure to take corrective action could result in administrative separation. On 22 April 1994, you were convicted by general court martial (GCM) for stealing money by means of violence and force from a noncommissioned officer (NCO) against his will, steal money of value of \$22.00 property of an NCO, and two instances of assault with intent to commit robbery. You were sentenced to a Bad Conduct Discharge (BCD), a period of confinement at hard labor, reduction in rank, and forfeiture all pay and allowances. Upon completion of all levels of legal review, you were so discharged on 6 December 1995.

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 accept responsibility for the situation that took place on █ in 1992 and admitted to be under the influence when it occurred, (b) you state there is no excuse for the matter, you hold yourself accountable, and apologize sincerely for your insurrection, (c) you are whole different person and are a proud father and grandfather, (d) you are a professional fitness trainer and a productive member of society, (e) you are a volunteer helper in organizations such as little league football, baseball, and soccer, (f) you cook and serve homeless and elderly people, (g) you provide help with landscaping and home repairs, (h) you will continue to be an upstanding citizen who will continue to lead and mentor others to avoid the same mistakes. You also checked the “PTSD” 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 your application; which consisted of your DD Form 149 and personal statement 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 GCM, outweighed these mitigating factors. In making this finding, the Board considered the likely seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. Additionally, the Board considered the likely negative impact it had on the good order and discipline of your unit; especially since your robbery and assault was against a NCO. Finally, the Board noted you provided no evidence, other than your statement, to substantiate your contentions.

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 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,

9/3/2025

