



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. 7315-25
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 8 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, 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 19 August 1983. Your enlistment physical examination, on 15 December 1982, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms. After a period of continuous Honorable service, you immediately reenlisted on 26 June 1987.

On 5 August 1987, your command issued you a "Page 11" warning (Page 11) for failing to clean your assigned weapon. The Page 11 advised you that a failure to take corrective action may result in administrative separation or judicial proceedings. You elected not to submit a rebuttal statement.

On 10 March 1988, pursuant to your guilty pleas, you were convicted at a Special Court-Martial (SPCM) of: (a) the larceny of a microwave oven from the ██████████, and (b) the unlawful entry of the enclosed mall area of the ██████████ while it was closed to commit the larceny. The Court sentenced you to confinement for four (4) months, a reduction in rank to the lowest enlisted paygrade (E-1), forfeitures of pay, and to be discharged from the Navy with a Bad Conduct Discharge (BCD).

On 14 March 1988, you waived your right to have your case considered by the Naval Clemency and Parole Board. On 24 May 1988, the Convening Authority approved the SPCM sentence as adjudged but suspended the confinement and forfeitures in excess of three (3) months.

On 23 December 1988, the U.S. Navy-Marine Corps Court of Military Review affirmed the SPCM findings and sentence. Upon the completion of SPCM appellate review in your case, on 6 April 1990, you were discharged from the Marine Corps with a BCD and were assigned an RE-4 reentry code. On 1 October 1992, the Naval Discharge Review Board denied your initial discharge upgrade application.

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 change your reason for separation to Secretarial Authority. You contend that: (a) you were dedicated to your service in the United States Marine Corps, have matured significantly since your discharge, and this maturity is evident in the your development, responsibility and relationships with your peers in your employment, (b) you would like to take this opportunity to apologize to this Board, and the Marine Corps as a whole, because you understand that Marines are held to a high standard of personal conduct and your actions fell far below that standard when you stole a microwave, (c) you have lived with the stigma of your BCD for more than fifty-five years and you are still haunted by your separation, (d) you now seek to finally remove this indelible stain from your military records so you can restore your honor, (e) your situation is a case study in redemption of character for purposes of a discharge upgrade, (f) your job performance shows how much you have matured since the incident leading to your discharge, (g) at the time of your BCD, you were in a bad marriage and struggled with the effects of a severe injury, and (h) as a sixty-one year old man you deserve a record that reflects your more than six (6) years of meritorious service prior to your BCD. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and the evidence you provided in support of it.

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 as to deserve a discharge 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 that a BCD characterization is generally warranted for serious misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Marine. The Board determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service. The Board also noted that your crimes were committed while you were

serving in a Military Police billet; which placed you in a special position of trust. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions.

The Board further 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.

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

8/15/2025

