



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

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Docket No. 7948-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 you did not file your application in a timely manner, the Board waived the statute of limitation in the interest of justice. A three-member panel of the Board, sitting in executive session, considered your application on 8 May 2026. 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 the understanding of the issues involved. Therefore, the Board determined your personal appearance was not necessary and considered your case based on evidence of record.

The following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

- You enlisted in the Navy and began a period of active duty on 5 March 1986.
- On 22 August 1987, you received your first nonjudicial punishment (NJP) for violation of Article 91, Uniform Code of Military Justice (UCMJ) due to insubordination toward a petty officer.

- On 20 May 1988, you received your second NJP for violation of Article 91, UCMJ, again for insubordinate conduct towards a petty officer, in addition to Article 117, UCMJ, for making provoking speech or gestures.

- On 16 November 1988, you were issued administrative counseling due to an unpaid phone bill.

- On 24 January 1989, you received your third NJP for numerous violations of the UCMJ, to include Article 86, for a period of unauthorized absence (UA), Article 91, for insubordinate conduct toward a chief petty officer, Article 92, for two specifications of failure to obey an order or regulation, Article 108, for destruction of military property, two specifications of Article 121, for larceny and wrongful appropriation, two specifications of Article 128, for assault, and Article 134, for committing conduct bringing discredit upon the Armed Forces.

- On 25 January 1989, you were placed into pre-trial confinement and remained confined until 16 March 1989, when you were tried by Special Court-Martial (SPCM). You were convicted for multiple violations of the UCMJ, to include Article 91, for disrespectful in language towards a chief petty officer, Article 128, for assault on a police officer in the execution of Department of Defense duties, Article 80, for attempting to destroy military property, and Article 95, for resisting lawful apprehension. You were sentenced to 75 days confinement, \$400 forfeiture of pay per month for three months, and a Bad Conduct Discharge (BCD). Following completion of appellate review, your BCD was executed on 7 January 1991.

In your application to this Board, you express a desire for your discharge character of service be upgraded and your reason for separation, separation authority, separation code, and reentry code be changed to reflect a Secretarial Authority discharge. You contend that:

- You faithfully served for 4 years and 10 months until an unfortunate incident resulted in your separation.

- While you acknowledge that the incident was serious, you believe that your punitive discharge does not accurately reflect your overall character or contributions to the military.

- You have not repeated such behavior since your discharge and believe that your lapse in judgment should not overshadow years of otherwise honorable and dedicated service. The incident leading to your discharge was isolated and uncharacteristic, and that you were not given the opportunity to present mitigating circumstances or to demonstrate rehabilitation while still in service.

- Comparable cases have permitted members to continue serving or to receive more lenient administrative actions in contrast to your conviction and punitive discharge. You believe that equity and fairness weigh in favor of granting relief.

In support of your application, in addition to your legal counsel's brief, you submitted academic certificates or your achievements, transcripts, your résumé, a mental health plan, and five letters of support.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately processed for administrative separation based on your record of misconduct. The Board noted you admitted to committing the misconduct that formed the basis of your administrative separation and OTH discharge. Therefore, the Board determined the presumption of regularity applies to your OTH discharge and no error exists with your record.

The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your desire for an upgrade to your characterization of service, your contentions, the totality of your service to include service highlights, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your rehabilitation efforts, your post-service record of accomplishments, your service to your community, the evidence you provided in support of your application, the character references you provided for review, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, the Board 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. Further, the Board did not concur that your misconduct was an isolated incident; rather, your official military personnel file (OMPF) documents repeated infractions with respect to insubordinate conduct, theft, assault, destruction of military property, failure to obey regulations, resisting arrest, and assault upon a police officer, occurring at various intervals over a period of more than two years. The Board found these offenses to be not only serious and repetitive in nature but violent and destructive. Therefore, even taking into consideration all the mitigation factors in your case, the Board found that your misconduct while on active duty outweighed the mitigation evidence offered. In making this finding, the Board disagreed with your assertion that you served faithfully for 4 years and 10 months. At the time of your SPCM proceedings, you had just completed 3 years of service, after which you served a period of confinement and were placed into an appellate leave status pending the appellate review of your punitive discharge. While the Board commends you for your post-service accomplishments and rehabilitation efforts, ultimately, the Board concluded an upgrade of your discharge characterization of service is not warranted in the interests of justice.

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 is attached 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,

6/1/2026

