

2. On 14 April 1998, you were convicted by a special court-martial (SPCM) of committing an indecent act upon the body of a child under 16 years and two specifications of communicating indecent language to a child under 16 years. You were sentenced to confinement, reduction in rank, and a Bad Conduct Discharge (BCD). After a completion of appellate review, you were discharged in absentia, on 2 May 2000, with a General (Under Honorable Conditions) (GEN) characterization of service².

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

The Board initially concluded you were appropriately separated with a GEN characterization of service based on your SPCM conviction. While the Board carefully considered your contention for mitigation and your argument that you were false accused, the Board noted you provided no evidence, other than your statement, to substantiate your contentions. Furthermore, the Board considered that you were properly convicted by a SPCM which would have received an appellate review. Therefore, absent substantial evidence to the contrary, the Board determined the presumption of regularity applies to the finding that you committed the misconduct that formed the basis of your administrative separation and were properly separated for misconduct with a GEN characterization of service.

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, the totality of your service, your need for veterans' benefits³ and the right to bear concealed firearms, the negative effect your discharge has had on your life, your contention that you were wrongfully accused, 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 the misconduct for which you were convicted to be especially heinous since it involved crimes against a child. The Board found the evidence you provided to be woefully insufficient to mitigate your offenses. Moreover, the Board noted you were already afforded a large measure of clemency based on your DD Form 214 that indicates you were ultimately separated with a GEN vice the punitive discharge awarded at the SPCM. Finally, the Board believed that it would be unjust to characterize your less than honorable service in the same manner as the service of the thousands of service members who, unlike you, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. While the Board noted that flawless service is not required to receive an Honorable characterization of service, the nature and gravity of your misconduct led them to conclude that your service was far from Honorable. Therefore, the Board did not find an upgrade of your discharge to be warranted in the interests of justice.

² Your record does not contain the appellate review of your SPCM conviction and sentence. Therefore, the Board determined the presumption of regularity applies to your GEN characterization of service.

³ In reviewing your record, the Board believes that you may be eligible for veterans' benefits, which accrued during your prior periods of Honorable service. However, your eligibility is a matter under the cognizance of the VA. In this regard, you should contact the nearest VA office concerning your rights, specifically, whether or not you are eligible for benefits based on your prior periods of Honorable service.

Accordingly, given the totality of the circumstances, the Board determined 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,

2/17/2026

