



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 2220

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Docket No. 8773-25
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 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 9 March 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, 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the 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:

1. You enlisted in the Marine Corps and began a period of active duty on 23 July 1984.
2. On 1 May 1986, you were formally counseled regarding your failure to pay debts due to insufficient funds. You were warned that failure to take corrective action would result in administrative or judicial proceedings.

3. On 15 September 1986, pursuant to your guilty pleas, you were convicted by special court martial (SPCM) for 19 instances of intent to defraud by making uttered checks totaling \$1,409.00. You were sentenced to a Bad Conduct Discharge (BCD), reduction in rank, a period of confinement, and forfeiture of pay. Your SPCM sentence was approved and ordered executed; however, but the execution of your BCD was suspended for one year.

4. On 27 April 1987, you received nonjudicial punishment (NJP) for two instances of intent to defraud by making uttered checks in the amount of \$200.00. Consequently, the suspension of your BCD was vacated.

5. After completion appellate review, you were so discharged with a BCD characterization by reason of SPCM conviction on 8 February 1988.

In your application to this Board, you express a desire for your discharge character of service be upgraded and contend that:

1. You were recently diagnosed with Amyotrophic Lateral Sclerosis (ALS), a progressive and terminal illness that has rapidly deteriorated your health and now requires you to use a walker full time.

2. Your discharge was the result from financial difficulties during service but you did not intentionally write bad checks and took immediate action to resolve the matter once you became aware of it.

3. The punishment and resulting BCD were disproportionately severe given the circumstances and lack of fraudulent intent.

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

The Board initially concluded you were appropriately discharged with a BCD based on your SPCM conviction and sentence. While the Board carefully considered your contention for mitigation, the Board noted you pleaded guilty to the misconduct that formed the basis of your SPCM conviction. Therefore, the Board determined the presumption of regularity applies to your SPCM conviction 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, your need for veterans' benefits, the non-violent nature of your misconduct, 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 harshness of your punishment, your advanced age, 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. Moreover, the Board was not persuaded by your argument that your misconduct was not intentional and, therefore, the punishment imposed too severe. As previously discussed, you pleaded guilty to 19 specifications of intentionally uttering checks *with intent to defraud*. Furthermore, after you were given clemency with a suspension of your BCD, you continued to utter worthless checks. 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 and your assigned BCD was fully supported by your continued misconduct.

Additionally, 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. While the Board considered your age and possible need for benefits to address your health concerns, they determined the severity of your misconduct outweighed any mitigation resulting from those factors. 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. Therefore, the Board did not find an upgrade of your discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice. Even though the Board commends you for your post-service rehabilitation and acknowledged the personal difficulties you are enduring with your ALS, 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 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,

3/23/2026

