



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

██████████
Docket No. 10371-25
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 10 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, 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 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 Navy and began a period of active duty on 3 June 1985. After a period of continuous Honorable service, you immediately reenlisted and began a second period of active duty on 1 June 1988.
2. On 6 November 1988, you began a period of unauthorized absence (UA) that ended on 17 November 1988. On 8 December 1988, you received non-judicial punishment (NJP) for the 11-days UA, UA from your appointed place of duty, and violation of a lawful general regulation by being in ██████████ after curfew. Subsequently you were issued a counseling warning and advised further deficiencies in your performance or conduct may result in disciplinary action and processing for administrative separation.

3. On 28 February 1989, you commenced another period of UA that ended on 9 May 1989. During the UA period, you missed ship's movement. Upon your return to military control, you were found guilty at special court-martial (SPCM) for the aforementioned UA and missing ship's movement, and two specifications of wrongful use of cocaine. You were sentenced to confinement, a forfeiture, and a Bad Conduct Discharge (BCD). After completion all levels of review, you were so discharged on 17 July 1990.

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

1. A ██████████ officer stressed you out by offering a BCD for an early release from the Brig.
2. You never saw a judge or had a captain's mast.
3. At the time of your UA, you had a substance abuse issues. You also entered the Navy with a drug use waiver.
4. You feel your situation was caused by duress, coercion, desperation, age, education, cultural background, judgmental maturity, and mental or cognitive impairment at the time of your UA.

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. The Board noted you did not deny committing the misconduct that formed the basis of your SPCM conviction. Further, the Board was not persuaded by your contention that you were denied due process because you provided no evidence, other than your statement, to substantiate your contention. Additionally, procedurally, the Board noted it was legally impossible for your BCD to be approved on appellate review if you were not sentenced by a SPCM presided over by a military judge. Therefore, the Board determined the presumption of regularity applies to your BCD 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, the harshness of your punishment, the evidence you provided in support of your application, your advanced age, 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 determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for

duty, and poses an unnecessary risk to the safety of their fellow service members. Further, the Board found that your conduct showed a complete disregard for military authority and regulations. 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. 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 the end, 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.

Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Based on the extract of Code of Federal Regulations you provided regarding Department of Veterans Affairs (VA) benefit eligibility based on character of discharge, the Board deduced you sought an upgrade to your characterization of service for your second enlistment in order to qualify for VA benefits. While your second enlistment period resulted in a punitive discharge, as previously discussed, your first enlistment was completed honorably and documented with a separate DD Form 214. The Board observed that you may be eligible for VA benefits based on your first period of Honorable service. However, eligibility for VA benefits falls exclusively with the AO. Therefore, the Board recommended you contact the nearest VA office to determine whether you qualify based on your first enlistment period.

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,

3/30/2026

