



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

█  
Docket No. 4964-21  
Ref: Signature Date

█  
█  
█  
Dear Mr. █,

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 28 October 2021. The names and votes of the members of the panel 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 this 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.

A review of your record shows that you entered active duty with the Marine Corps in September 2008. You participated as a member of the Marine Corps football team between 2009 and 2011 reporting multiple concussions during this period. In 2011, you deployed in support of Operation Enduring Freedom and served without incident for several years upon your return. However, in November 2014, you were counseled for failing to wear the uniform of the day when reporting to your place of duty. In the months that followed, you were treated for a right shoulder condition, Headache Syndrome related to your prior concussions, and diagnosed with Post-Traumatic Stress Disorder Military Combat Stress, Anxiety Disorder, and Alcohol Dependence. During this time, you were placed on limited duty for your orthopedic issues but deemed psychologically fit for duty while receiving treatment for your mental health conditions. After being counseled on 8 June 2015 for a period of unauthorized absence from a class, non-judicial punishment was imposed on you for two periods of unauthorized absence. That same day, you were screened for substance abuse and deemed psychiatrically fit for full duty at that time. Based on your misconduct, your command requested the Commanding General terminate your Disability Evaluation System (DES) processing in order to administratively process you for misconduct. However, after your DES processing was terminated, you reached your end of obligated active duty service before your command was able to process you for misconduct. As a result, you were discharged at the end of your obligated active duty service with an Honorable characterization of service and issued a RE-1A reenlistment code.

The Board carefully considered your arguments that you deserve to be reinstated to active duty in order to be processed through the DES. You argue that the Commanding General erroneously terminated your DES processing based on flawed evidence. Unfortunately, the Board disagreed with your rationale for relief. In reviewing your case, the Board made several findings before determining the preponderance of the evidence supports the Marine Corps' decision to discharge you at the end of your obligated active duty service.

First, while you allege the Commanding General erroneously terminated your DES processing based on flawed evidence of misconduct, the Board found no evidence to substantiate your allegation. The Board considered the arguments raised by your assigned Defense Counsel to the Commanding General but found no evidence to substantiate his arguments of error. When weighed against the findings made by your Commanding Officer, after considering the evidence raised during your non-judicial punishment proceedings, the Board determined the findings of your Commanding Officer to be more persuasive. In making their findings, the Board also noted you did not appeal the non-judicial punishment imposed on you. Therefore, the Board determined your non-judicial punishment was supported by the evidence.

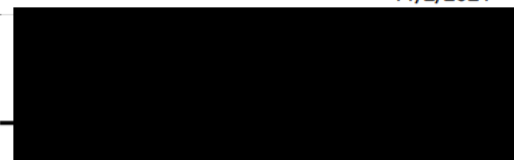
Second, the Board concluded that the Commanding General had the authority to terminate your DES processing based on your command's request to administratively separate you for misconduct. As the first General Officer in your chain of command, Commanding General, 2<sup>nd</sup> Marine Division possessed the authority to terminate your DES processing based on the evidence of your misconduct. The fact your command was unable to process your administrative separation before your enlistment contract expired did not make his decision to terminate your DES processing erroneous.

Third, in the Board's opinion, you, more likely than not, benefited tremendously by escaping administrative separation processing for misconduct since you received an Honorable discharge warranted by your service record vice the General characterization recommended as part of your administrative processing. The Board also noted that you were assigned a RE-1A reenlistment code at the time of your discharge, meaning you could have reenlisted to contest your DES termination but likely chose to be discharged to avoid your pending administrative separation processing. Therefore, despite your belief that an error or injustice occurred when your DES processing was terminated, the Board found no error, as explained above, and no injustice based on you escaping administrative separation processing and receiving an Honorable characterization of service. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your record.

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,

11/2/2021

A large black rectangular redaction box covering the signature area.

Deputy Director

Signed by:

A black rectangular redaction box covering the name of the Deputy Director.