



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

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Docket No: 2489-22
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 27 April 2022. 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).

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.

You enlisted in the Marine Corps and began a period of active service on 6 January 2004. Prior to your enlistment into the Marine Corps, on 2 September 2003, you underwent a medical evaluation in which you disclosed your use of alcohol and marijuana use. On 26 January 2004, you were dropped to medical rehabilitation platoon (MRP) due to pneumonia. You went on a period of unauthorized absence from 8 February 2004 to 9 February 2004. On 11 February 2004, you were referred for a mental health evaluation because you expressed suicidal ideations in a letter to your mother. During the evaluation you disclosed preservice use of acid, marijuana, and cocaine along with a medical history that included a suicide attempt,

treatment for attention deficit hyperactivity disorder (ADHD), and antidepressant treatment. You were diagnosed with the following conditions: alcohol and drug abuse, depressive disorder-not otherwise specified (NOS) existed prior to entry (EPTE), ADHD-EPTE, and Borderline Personality Disorder, EPTE. As a result of the information you revealed in the mental health evaluation, you were recommended for administrative separation processing. On 13 February 2013, you contacted both your recruiter, and your next of kin requesting an entry-level separation because you were a high risk to yourself and others. On the same day, you received non-judicial punishment for unauthorized absence (UA), and refusing to train. On 17 February 2004 and 19 February 2004, you were counseled regarding your fraudulent entry into the Navy as a result of your failure to disclose your alcohol/drug abuse and your depressive disorder. On 19 February 2004, 49 days from your entrance into active service, you were notified of the initiation of administrative separation proceedings by reason of fraudulent entry into military service, at which point you waived your right to consult with counsel. You were discharged, on 24 February 2004, with an uncharacterized entry-level separation by reason of fraudulent entry.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to change your record. You contend that you disclosed your previous drug and alcohol use prior to your entry onto active duty. You also believe that you would not have received an uncharacterized discharge under current standards. Additionally, you claim your incident of UA was a result of harassment. The Board noted you submitted supporting documentation describing post-service accomplishments and advocacy letters.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board concluded that you intentionally failed to disclose the extent of your illegal drug use or your extensive mental health history prior to your entry into active service. As a result, the Board found the initiation of your administrative separation proceedings by reason of fraudulent entry to be appropriate. In addition, since you were notified of the initiation of separation proceedings within the first 180 days of your active duty service, the Board found the assignment of an uncharacterized entry-level separation to be also appropriate. Therefore, after applying liberal consideration, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or any other change to your record. Further, after consideration of the evidence you provided in support of your application, the Board determined the granting of clemency in the form of an upgraded characterization of service or change to your narrative reason for separation was not appropriate based on the seriousness of your conduct. 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 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

