



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: 2821-22
Ref: Signature Date



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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You entered active duty with the Marine Corps on 9 November 2000. According to the information in the record, on 19 April 2021, you discharged as a result of misconduct due to a commission of a serious offense with an uncharacterized characterization of service and assigned an RE-4 reenlistment code.

Although the Board lacked your entire service record, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to rebut the presumption, the Board presume that you were properly discharged from

the Marine Corps. Therefore, the Board relied on a presumption of regularity that you were notified of the recommendation that you be discharged by reason of misconduct due to commission of a serious offense (COSO) and assigned an RE-4 reenlistment code. After waiving your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge by reason of misconduct due to COSO with an uncharacterized characterization of service and an RE-4 reenlistment code. The SA approved the recommendation, and on 19 April 2021, you were so discharged.

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 RE-4 reentry code and assertion that you would like the opportunity to serve in the US Armed Forces.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that there is insufficient evidence to support your request to change your reenlistment code. In making this finding, the Board noted you did not submit any post-discharge advocacy letters for clemency purposes. Further, the Board also noted that an RE-4 reentry code is assigned when a CO determines an RE-4 reenlistment code is warranted. In your case, since you were discharged for commission of a serious offense, the Board determined the assignment of a RE-4 code is appropriate. Therefore, the Board did not find evidence of an error or injustice that warrants changing your reenlistment code or granting clemency in the form of changing your reenlistment code to one that would allow you to reenlist. 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 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,

5/11/2022

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Executive Director

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