



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

█  
Docket No: 3014-22  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 11 May 2022. 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, as well as applicable statutes, regulations, and policies.

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 enlisted in the Navy and began a period of active service on 11 August 2005. From the period beginning on 25 July 2005 to 26 August 2008, you received non-judicial punishment (NJP) on three occasions for two specifications of driving under the influence of alcohol, two specifications of assault, and unauthorized absence. In addition, you received one counseling statement and a civil conviction for driving under the influence of alcohol. As a result, on 27 August 2008, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to the commission of a serious offense, pattern of misconduct, and alcohol rehabilitation failure. On 28 August 2008, you elected your right to consult with counsel and review of your case by an administrative discharge board (ADB). However, on 20 October 2008, the discharge authority approved and directed your discharge under notification procedures, thereby obviating your right to elect an ADB. Consequently, on 17 November 2008,

you were discharged with a General (Under Honorable Conditions) character of service by reason of misconduct due to the commission of a serious offense and you were issued an RE-4 reentry code. On 8 April 2015, you reentered active service into the Navy fraudulently. While processing for enlistment into naval service you fraudulently stated you had not been in any branch of the Armed Forces on your DD Form 1966/2. Subsequently, you were processed for discharge due to fraudulent entry. On 18 November 2015, you were discharged with a General (Under Honorable Conditions) character of service by reason of fraudulent entry.

Your record does not contain all of the documents pertinent to your administrative separation processing. However, whenever official records are incomplete or unavailable, unless there is substantial credible evidence to rebut the presumption, the Board can presume a regularity in the conduct of the government affairs. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties.

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 reentry code from RE-4 to RE-3, to allow you the opportunity to reenlist in the Armed Forces. You contend that you have learned from your mistakes. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments, or advocacy letters.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and civil conviction, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact you fraudulently entered the Navy after your initial discharge. As a result, the Board determined you were issued the appropriate reentry code based on your unfitness for further active service. After applying liberal consideration, the Board did not find evidence of an error or injustice that warrants changing your reentry code or granting clemency in your case. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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,

6/1/2022

[REDACTED]  
Executive Director  
[REDACTED]