



**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: 4291-22  
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 29 June 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 enlisted in the Navy and began a period of active service on 5 April 2022. On 6 April 2022, your urine was collected for a drug screen following your entry into the Navy. On 27 April 2022, your urinalysis returned positive for cocaine use. On 4 May 2004, you were notified of the initiation of administrative separation proceedings by reason of fraudulent entry due to your preservice drug use. On the same day, you waived your right to consult with counsel. On 6 May 2022, the discharge authority approved and directed your discharge with an uncharacterized character of service by reason of fraudulent entry due to drug abuse. On 16 May 2022, you were discharged and issued a RE-4 reentry code.

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 reentry code to a code that would allow enlistment in the Armed Forces with an approved waiver and your contentions that you struggled to enlist in the Navy due to your DUI, alcohol addiction, and marijuana use. Further, you included a statement with your application in which provided an explanation of the events that led to your positive urinalysis and circumstances regarding your life. For purposes of clemency consideration, the Board noted you provided advocacy letters but no supporting documentation describing post-service accomplishments.

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 positive urinalysis, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. In addition, the Board was not persuaded by your chronology of events that led to your positive urinalysis and concluded that it wasn't reliable evidence on which to base a grant a relief. The Board considered the additional character evidence you submitted but concluded that the favorable matters you submitted for consideration were also insufficient to outweigh the severity and nature of your misconduct. Ultimately, the Board concluded the evidence supports a finding that your drug use was intentional and you deliberately failed to disclose it upon reporting for active duty. As a result, the Board concluded you were appropriately discharged for fraudulent entry and assigned a RE-4 reentry code. The Board further concluded that preponderance of the evidence continues to warrant the RE-4 reentry code based on your unsuitability for naval 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.

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,

7/23/2022

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Executive Director  
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