



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

■
Docket No: 5288-22
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 you did not file your application 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 12 September 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 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, 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).

You enlisted in the Navy and began a period of active duty on 15 August 2013. On 3 March 2015, you were notified of your impending administrative separation as a result of misconduct due to your alcohol or drug rehabilitation failure, at which time you waived your right to consult with counsel and to submit a written statement. Your commanding officer's recommendation dated 3 March 2015, states, "[Petitioner] was screened by the Drug and Alcohol Prevention Advisor (DAPA) to attend level III treatment. Unfortunately, [Petitioner] failed to return to treatment after a weekend, and he was classified as a treatment failure. Unfortunately, [Petitioner] has no potential for further naval service." On 17 March 2015, after one year and seven months of service, you were discharged with a General (Under Honorable Conditions) (GEN) characterization of service.

Unfortunately, all of the documents related to your administrative separation are not in your official military personnel file (OMPF). In this regard, 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 (as is the case at present), will presume that they have properly discharged their official duties. Your Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that your narrative reason for separation is “Alcohol Rehabilitation Failure,” your separation code is “GPD,” and your reenlistment code is “RE-4.”

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 and contentions that you desire to reenter the military after pursuing post-discharge education. You state in your application, “my not completing this (alcohol rehabilitation treatment) at the time was the biggest mistake of my life and I have since completed all necessary requirements. With your permission I would like to rejoin the military and finish my career in serving this country the way I originally intended upon joining.” For purposes of clemency consideration, the Board noted you provided supporting documentation describing post-service accomplishments but no advocacy letters.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board concluded that you were appropriately assigned a RE-4 reentry code based on the circumstances of your case at the time. Further, the Board determined that an unfavorable “RE” code is, in itself, not a bar to reenlistment. A request for waiver may be submitted during the processing of a formal application for reenlistment through a recruiter. As a result, the Board concluded your record continues to warrant a RE-4 reentry code. 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,

9/29/2022

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Executive Director

Signed by: █