



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: 5642-22
0539-22
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 26 August 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).

You enlisted in the Navy and began a period of active service on 22 November 2018. On 7 September 2021, you were discharged with an Honorable character of service as a result of a condition that was not a disability, and issued a RE-3G reentry code.

Your record is incomplete, in that it 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. Absent of such evidence or statement, the Board relied upon the presumption of regularity that your assigned reentry and separation (SPD) codes are correct.

This Board previously denied your request to change your reenlistment code, on 31 January 2022, after determining your request did not merit relief. In its decision letter, the Board informed you that your application lacked sufficient evidence to support a change to your record.

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 change your SPD and reentry codes to those that would allow enlistment into the Air National Guard.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board noted that you presented the same statement in support of your request as provided with your previous application. The Board further noted, you provided no new evidence such as a physical evaluation by a physician or a statement to support you are no longer suffering from the medical condition which initiated your administrative separation. As a result, the Board found that your current reentry and SPD code remain appropriate. In making this finding, the Board considered the fact that these codes do not prevent you from joining the Armed Forces. Recruiting commands may waive the codes, with additional assessment of your case, to allow enlistment provided the needs of the service require it. 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,

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Executive Director

Signed by: █