



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

█  
Docket No: 5719-22  
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 24 August 2007. On 28 May 2017, you were placed on the Temporary Disability Retired List (TDRL) with an Honorable characterization of service, RE-3P reentry code, and a SPD code of SFK.

Your record is incomplete, in that it does not contain all of the documents pertinent to your Physical Evaluation Board (PEB) 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 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 reenlistment and SPD code to allow you the ability to reenlist in the Armed Forces. You contend you were released from active duty because of disability after being misdiagnosed with bipolar disorder and you no longer suffer from this disorder.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board noted you provided no evidence to support your contentions of a misdiagnosis and absent evidence to the contrary, the Board relied upon the presumption of regularity that the PEB findings remain correct. Further, the Board found that your current reentry code and SPD code do not prevent you from joining the Armed Forces. Recruiting commands may waive said code with additional medical assessment of your case to allow for enlistment should 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,

9/20/2022

