



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

█
Docket No: 7231-22/
5046-20
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 19 October 2022, has carefully examined your current request. 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 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 previously applied to this Board for a discharge upgrade but were denied on 24 February 2021. The Board determined the mitigation evidence you submitted in support of your request was insufficient to offset the seriousness of your misconduct, which resulted in you failing to disclose you received outpatient treatment for Post-Traumatic Stress Disorder (PTSD), depression anxiety, and self-harm prior to enlisting into the Marine Corps.

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 RE-4 Reenlistment Code and contentions that your discharge was unfair, unlawful, and unjust. You argue that you were not give a chance to justify yourself, you were evaluated using a previous therapist evaluation, and no mental defects were found during your evaluation. For purposes of clemency consideration,

the Board noted you provided supporting documentation describing your post-service accomplishments and advocacy letters.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your failure to disclose your prior medical history, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included concealing important qualification information during your enlistment process. While the Board took into consideration your contentions, the Board noted that there is no evidence in your record, and you submitted none, to substantiate your allegations. Therefore, the Board found the presumption of regularity applicable in your case. 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. As a result, the Board concluded your conduct constituted a significant departure from that expected of a Marine and continues to warrant an RE-4 reenlistment code. The Board considered the additional evidence you submitted regarding post-discharge character but concluded that the favorable matters you submitted for consideration were also insufficient to outweigh the severity and nature of your misconduct. While the Board commends your post-discharge conduct, even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants changing your RE-4 reenlistment code or granting clemency in the form of an upgraded reenlistment code. 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,

10/27/2022

A large black rectangular redaction box covering the signature area.

Executive Director

A black rectangular redaction box covering the name of the Executive Director.