



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: 7497-22
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 14 November 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).

On 27 October 2021, during your enlistment processing, an accession medical history questionnaire documents you answered "No" to "been evaluated or treated, either with medication or counseling, for a mental health condition, depression or excessive worry," and "have you ever attempted or considered suicide." You subsequently enlisted in the Navy and commenced active duty on 6 June 2022.

Unfortunately, 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, will presume that they have properly discharged their official duties. Your Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that you were separated from the Navy on 8 August 2022 with an uncharacterized discharge, your narrative reason for

separation is "Fraudulent Entry," your separation code is "JDA," 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 reenlistment code and contentions that: (1) you were discharged for paranoid personality disorder, PTSD (from childhood sexual assault), and hypersomnia, but your medical records do not indicate this nor were you examined or diagnosed as such, and (2) your record states your enlistment was fraudulent and that you lied about your diagnosis because you never disclosed this information, but you did not lie or withhold information during your enlistment processing as you received your diagnosis in December 2021 which was after completing paperwork and your induction in the delayed entry program. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined the presumption of regularity supports the Navy's decision to administratively separate you for failing to disclose your history of mental health conditions during your enlistment process. The Board noted you provided no evidence to support your contentions. Therefore, the Board was not persuaded by your assertions and chose to apply the presumption of regularity in the absence of evidence that shows the Navy's actions were erroneous. As a result, the Board concluded your reentry code remains appropriate. 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 upgrading your reentry code or granting relief as a matter of clemency or equity. 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,

12/1/2022

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