

DEPARTMENT OF THE NAVY

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

Docket No: 7961-22 Ref: Signature date



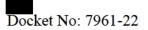
Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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, 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Marine Corps and began a period of active duty on 29 June 2020. On 10 May 2021, you were diagnosed by a medical officer with adjustment disorder with mixed anxiety and depressing mood episodes. On 11 May 2021 and 25 July 2021, you were counseled concerning your medical diagnosis. You were advised to refrain from disorderly conduct which could result in UCMJ and obey orders from your superiors. On 26 July 2021, you were notified of the initiation of administrative separation proceedings by reason of a condition, not a disability. On 17 September 2021, a medical officer determined that you were not suffering from symptoms of Post Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI). On 28 Oct 2021, your



commanding officer recommended a General (Under Honorable Conditions) discharge characterization of service by reason of a condition, not a disability. On 29 October 2021, the separation authority approved and ordered a General (Under Honorable Conditions) discharge characterization by reason of a condition, not a disability with an RE-3P reenlistment code. On 9 November 2021, you were so discharged.

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 code to one that would allow you to reenlist in the military. You contend that you were separated as a result of a knee injury, and that you have been medically cleared to perform a physical fitness test. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board conclude your assigned reentry code remains appropriate based on your medical diagnosis and basis for administrative separation. Additionally, the Board noted you provided no evidence to support your assertion that you are no longer suffering from the medical condition which initiated your separation. Further, the Board considered that your assigned reentry code is not a bar to reenlistment and may be waived by the military recruiting commands provided sufficient evidence for a waiver is provided. As a result, the Board found no error or injustice in your record and determined that no change is warranted. 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 the 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.

