



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: 8165-22
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. Your currently request has been carefully examined by a three-member panel of the Board, sitting in executive session on 12 December 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 Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of 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 to change your reentry code and to have your Involuntary Separation Pay (ISP) entitlements changed from "half" to "full" based off your contentions that an administrative board retained you but, due to the reenlistment time frame and your inability to remove false administrative entries (page 11s) from your official military

personnel file (OMPF), you were unable to submit your reenlistment package before the allotted time/spaces were filled. You further content you were initially issued a Certificate of Release or Discharge From Active Duty (DD Form 214) with a reentry code of RE-1A (recommended and eligible for reenlistment) but was called by someone stating they had to change the reentry code to RE-4B (not recommended for reenlistment) and this occurred while you were in the process of applying to enlist in another branch of service's reserve component. 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 found that your assigned reentry code is appropriate based on your positive urinalysis and non-retention based on your drug related misconduct. The Board noted that a "RE-4B" is assigned to a Marine when there is a military or civil record of in-service drug involvement and a determination is made that there is no further potential for service. In your case, the Board noted the page 11 entry documenting your positive urinalysis for wrongful use of Fentanyl. Therefore, notwithstanding the administrative board's decision to recommend your retention in the Marine Corps, the Board concluded your assigned reentry code remains appropriate based on the Marine Corps' decision not to reenlist you due to your apparent drug abuse.

Based on the Board's finding that your reentry code remains appropriate, the Board determined that half ISP is supported by the applicable regulations. DODI (Department of Defense Issuance) 1332.29 states half ISP is authorized in cases involving involuntary separation by reason of either denial of enlistment or the denial of continuation on active duty. Therefore, 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 reentry code, granting full ISP, 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,

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