



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

█  
Docket No. 8427-22  
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 15 February 2023. 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 U.S. Marine Corps and began a period of active duty on 1 May 1989. During a training evolution on 8 May 1989, you went to medical complaining of severe headaches. During your consultation, you related a history of migraine headaches in the past and you were prescribed medication for the migraines. You subsequently provided a copy of your civilian medical records that confirmed the history of migraine headaches. A medical board was convened and recommended you be discharged for erroneous enlistment based on your preexisting condition. Your Commanding Officer (CO) recommended to the Separation Authority (SA) that you be discharged with an Entry Level Separation characterization for erroneous enlistment. The SA accepted the recommendation and directed your discharge. You were so discharged on 26 May 1989 and assigned an RE-3P reentry code.

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 for a change to your reentry code and contentions that you only sustained migraine headaches during basic training because of severe weather conditions during training evolutions, you previously had migraines when you were a teenager but never had any more until basic training, and if you were not subjected to training on black flag days you would have been able to complete basic training and continue your military service. For purposes of clemency and equity consideration, the Board noted you did not provide any supporting documentation with your application.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your reentry code remains appropriate. In making this finding, the Board considered the medical board documentation where you admitted to failing to divulge preservice frequent or severe headaches on your SF93 and your diagnosis. Based on these factors, the Board found no error or injustice with your assigned reentry code. The Board noted that your reentry code is a waivable reentry code and does not prevent you from reenlisting provided you are able to submit evidence the basis for your erroneous enlistment no longer exists. As a result, 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 granting you the relief you requested 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,

2/21/2023

