



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. 818-23
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 8 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).

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.

You enlisted in the U.S. Marine Corps Reserve and began a period of active duty for training on 5 June 2017 that ended on 2 September 2017. Subsequently, you began your Ready Reserve period of service on 3 September 2017. Between 20 May 2018 and 13 April 2019, you failed to pass two consecutive Physical Fitness Tests (PFT). In the meantime, you accumulated ten unexcused absences from scheduled drill periods despite efforts by your chain of command to contact and return you to a satisfactory drilling status. As a result, your Commanding Officer (CO) recommended to the Separation Authority (SA) that you be discharged for unsatisfactory

participation and be assigned an Other Than Honorable (OTH) characterization. The SA accepted the recommendation and directed you be discharged. You were so discharged, on 27 May 2020, and assigned an RE-4 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 an upgrade to your reentry code and contentions that you attempted to join the Army Reserve, your waiver was denied due to your RE-4 reentry code, you would be eligible for a waiver if the change is approved, and you want to join the Army Reserve to fix your mistakes which was a PFT test failure and failing to report to drill. 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 that your misconduct, as evidenced by your unexcused absences from drill, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and determined that it showed a complete disregard for military authority and regulations. The Board further determined that willfully failing to show up to drill and not contacting your command is detrimental to good order and discipline. Based on your conduct, the Board found that you were not suitable for further military service and appropriately assigned a RE-4 reentry code at the time of your discharge. Finally, the Board noted you provided no evidence in support of your application. As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant a RE-4 reentry code. 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,

2/27/2023

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