



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. 2144-23

Ref: Signature Date

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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 you did not file your application in a timely manner, the statute of limitations was waived in the interest of justice. A three-member panel of the Board, sitting in executive session, considered your application on 22 May 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 this 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 United States Navy and commenced a period of active duty on 5 September 1990. On your enlistment application, you acknowledged pre-service drug use.

On 26 March 1991, you requested help coping with the Navy lifestyle and the financial difficulty of being a single parent. You were diagnosed with an Adjustment Disorder with Mixed Emotional Disturbance. You were declared "fit for duty at this time and responsible for [your] actions." You were referred for evaluation with regards to your alcohol use.

On 31 May 1991, you received a second medical evaluation wherein your treating provider noted your heavy alcohol and cannabis abuse. You were diagnosed with alcohol dependence (psychological and physical). You were referred to Level III in-patient treatment but stated that you had no motivation for treatment, and refused to attend. As such, you were determined to be an alcohol rehabilitation failure and your command initiated administrative separation processing.

Prior to your discharge, you received a separation physical in which you denied any mental health symptoms and reported "I am in good health."

Unfortunately, the documents pertinent to your administrative separation are not in your official military personnel file (OMPF). Notwithstanding, 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 9 July 1991 with an Honorable characterization of service, your narrative reason for separation is "Alcohol Abuse Rehabilitation Failure," your separation code is "JPD," 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: (1) your desire to change your reenlistment code, (2) your youth and maturity level at the time of your service, and (3) your assertion that you did not fully understand that an RE-4 reenlistment code would prevent your future service. For purposes of clemency and equity consideration, the Board noted that you provided a documentation of post-service accomplishments, specifically, your volunteer service with the Naval Sea Cadet Program.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your continued substance abuse outweighed these mitigating factors. In making this finding, the Board considered the likely negative impact your conduct had on the good order and discipline of your command. The Board determined that substance abuse is contrary to the Navy core values and policy, renders such Sailor unfit for duty, and poses an unnecessary risk to the safety of fellow shipmates. The Board noted that you were provided plenty of support from your command, to include referral to Level III in-patient treatment, but you refused to accept such report and change your behavior. Due to your significant substance abuse, the separation authority directed your discharge, and you were therefore not recommended for reenlistment. The Board concluded that your RE-4 reenlistment code was correctly assigned upon your discharge. As a result, the Board determined that there was no impropriety or inequity in your assigned reenlistment code and that your substantial substance abuse clearly merited your receipt of an RE-4.

Finally, regarding your comment about your failure to advance to E-3 after basic training, the Board did not find any error with your record. In the absence of evidence to the contrary, the Board relied on the presumption of regularity that your record is correct. Therefore, while the Board commends your post-service accomplishments and volunteer work, 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,

5/28/2023

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Executive Director

Signed by: █