



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

█  
Docket No. 3356-23

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 reconsideration application on 5 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 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. Navy and entered active duty on 11 October 1988. Your enlistment physical examination, on 16 August 1988, and self-reported medical history noted no psychiatric or neurologic issues or symptoms. On 7 February 1989, you reported for duty on board the █  
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On 30 October 1989, you commenced an unauthorized absence (UA) that terminated after two days, on 1 November 1989, with your surrender to military authorities. On 7 November 1991, you received non-judicial punishment (NJP) for UA, disorderly conduct, and for failing to obey a lawful order. You did not appeal your NJP. On 3 June 1992, your command withdrew your advancement recommendation for GMG2 (E-5) citing reliability and personal behavior reasons.

Near the completion of your obligated active duty service, on 12 July 1992, you were granted an early separation and honorably discharged from the Navy at the rank of GMG3 (E-4), but assigned an RE-4 reentry code. Your commanding officer in your performance evaluation for the period ending 12 July 1992 lowered your “personal behavior” mark to 2.8 (out of 4.0) and “reliability” mark to 2.8, down from 3.6 and 3.8, respectively, in your previous evaluation. Additionally, on your discharge day you acknowledged in writing of being informed that you were not eligible for reenlistment.

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 contentions that: (a) your RE-4 code was given in retaliation and in no way reflects or lines up with your active duty performance, (b) it was an injustice and a shame that someone would volunteer to defend their country and then receive a negative mark in their service record because of someone’s dishonesty and outright vindictive motives, and (c) your reentry code has cost you many post-service opportunities. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board did not believe your record was otherwise so meritorious as to deserve a reentry code modification. The Board concluded that certain negative aspects of your conduct and/or performance tarnished the positive aspects of your military record. Additionally, the Board relied on a presumption of regularity to support the official actions of public officers and determined that you did not provide convincing evidence that you were the victim of discrimination, disparate treatment, dishonesty, or improper motives while on active duty. The Board noted that the record clearly reflected your active duty misconduct was intentional and willful. Moreover, the Board noted that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not otherwise be held accountable for your actions. The Board determined that given the documented misconduct and declining performance in your record, it was clearly within your command’s discretion to assign you an RE-4 reentry code despite receiving an Honorable discharge characterization.

Finally, absent a material error or injustice, the Board declined to summarily change a reentry code solely for the purpose of facilitating veterans benefits or enhancing educational or employment opportunities. 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 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,

5/10/2023

