



**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. 9007-23  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 30 October 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 to 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 the understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on evidence of record.

You enlisted in the Navy and began a period of active duty on 9 December 2002. As part of your enlistment processing, you disclosed no disciplinary or mental health problems. However, during a mental health evaluation on 28 January 2003, you revealed pre-service mental health history of extended psychiatric hospitalizations, diagnoses of bipolar disorder (BPD), attention deficit hyperactivity disorder (ADHD), and conduct disorder (CD), with a prescription history of Ritalin, Adderall, Depakote, Clonidine, and Risperdal. You also disclosed prior disciplinary history of juvenile detention, which resulted in your transfer to maximum security facility after assaulting a staff member. You also disclosed a work history of being terminated due to personality conflicts. Based upon your pre-service mental health diagnoses, you were notified of administrative separation for defective enlistment and induction due to erroneous enlistment with uncharacterized service. At the time of your discharge, on 5 February 2003, you were assigned a restrictive reentry code of "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, your desire to change your reentry code to an "RE-3" code to permit you to pursue a waiver for reenlistment and your contentions that the "RE-4" code was unfair because it would be more common to have assigned a less restrictive reentry code. In this regard, you claim that your erroneous entry was related to the actions of a recruiter who was subsequently disciplined and removed from service. You also state that you have maintained excellent physical fitness and discipline in the years since your discharge. 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. Specifically, the Board determined your assigned reentry code remains appropriate. In making this finding, the Board considered that failure to disclose potentially disqualifying disciplinary or medical history could have been classified as fraudulent entry. In this regard, the Board observed that you were instead processed for erroneous entry, which the Board found gave some credence to your allegation that the defect in your enlistment may have been attributed to recruiter misconduct. However, the Board concluded that this potential factor was not relevant to the determination of assigning an RE-4 versus RE-3 reentry code. The Board notes that the assignment of such codes is an administrative measure used to assist the military services with identifying potential future applications who may require further screening prior to granting a waiver to reenlist. The Board further found that assignment of either an RE-3 or RE-4 code for erroneous entry is a discretionary decision after considering all applicable facts. As a result, the Board concluded that the assignment of an "RE-4" to your discharge was neither erroneous nor unjust; rather, it serves a legitimate purpose in alerting potential recruiters of the more thorough screening which may be appropriate to any future enlistment application prior to granting a waiver. Additionally, the Board notes that a waiver for enlistment is possible with an "RE-4" code should you, in fact, be found to meet the qualifications for enlistment by another military branch. 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 the 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 is attached 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,

11/27/2023

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Executive Director

Signed by: █