



**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. 9901-23  
Ref: Signature Date

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Dear █

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 6 December 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 on 27 March 2003. You applied for platoon leaders class for naval aviator and were approved on 12 May 2003. You commenced active duty on 1 June 2003.

Unfortunately, some documents pertinent to your medical physical and or 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 Marine Corps on 8 August 2003 with an Uncharacterized characterization of service, your narrative reason for separation is “Entry Level Separation,” your separation code is “JFW1,” and narrative reason for separation “Officer Candidate Disenrollment.”

After your discharge, on 26 August 2003, Chief, Bureau of Medicine and Surgery (BUMED) sent a letter to the Commanding General, Marine Corps Recruiting Command stating that based on review of the available medical information, you do not meet established physical standards due to syncope.

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 in your characterization of service and contentions that your separation was unjust, your discharge documents are inaccurate since you never experienced syncope in any form, and you were never asked about this nor given the opportunity to be reviewed by a medical board to confirm or deny these allegations. Finally, you also allege reprisal in retaliation to the reporting of significant hazing made at Officer Candidate School (OCS) in the summer of 2003. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your assigned uncharacterized entry-level separation remains appropriate. Service regulations direct the assignment of an uncharacterized entry-level discharge when a service member is processed for separation within their first 180 days of active service. While there are exceptions in cases involving misconduct or extraordinary performance, the Board determined neither of these exceptions applied in your case. Additionally, as previously discussed, the Board relies on a presumption of regularity when adjudicating cases. Contrary to your assertion, the Board noted that the BUMED letter, after reviewing the clinical data on your physical, concluded that you did not meet the established physical standards due to syncope. The Board found your assertions insufficient to overcome the presumption of regularity of your assigned narrative reason for separation or the contents of the BUMED letter. Finally, the Board found no evidence to substantiate your allegation that you were the victim of reprisal based on reporting of hazing activities at OCS. The Board noted you provided no evidence, other than your personal statement, to substantiate your allegation. 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.

The Board thus determined there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC 1034. 10 USC 1034 provides the right to request Secretary of Defense review of cases with substantiated reprisal allegations where the Secretary of the Navy’s follow-on corrective or disciplinary actions are at issue. Additionally, in accordance with DoD policy you have the right to request review of the Secretary of the Navy’s decision regardless of whether your reprisal allegation was substantiated or non-substantiated. Your written request

must show by clear and convincing evidence that the Secretary of the Navy acted arbitrarily, capriciously, or contrary to law. This is not a de novo review and under 10 USC 1034(c) the Secretary of Defense cannot review issues that do not involve reprisal. You must file within 90 days of receipt of this letter to the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Office of Legal Policy, 4000 Defense Pentagon, Washington, DC 20301-4000. Your written request must contain your full name, grade/rank, duty status, duty title, organization, duty location, mailing address, and telephone number; a copy of your BCNR application and final decisional documents; and, a statement of the specific reasons why you are not satisfied with this decision and the specific remedy or relief requested. Your request must be based on factual allegations or evidence previously presented to the BCNR, therefore, please also include previously presented documentation that supports your statements.

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,

12/25/2023

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