



**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. 238-24  
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 2 February 2024. 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 entered active duty with the Navy on 11 February 1998. On 7 April 1998, a medical evaluation diagnosed you with Asthma, a condition that existed prior to enlistment (EPTE) and recommended you be administratively separated from the Navy. As a result, you were notified of pending administrative separation action by reason of defective enlistment. After you waived your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge by reason of defective enlistment, with and uncharacterized characterization of service and an RE-4 reenlistment code. The SA approved the recommendation and, on 15 April 1998, you were so discharged.

On 18 March 2013, this Board corrected your record to show your narrative reason for separation as "Erroneous Entry" and reenlistment code as "RE-3E."

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 RE-3E reenlistment code and contentions that you never had Asthma symptoms prior to joining the Navy and are currently healthy, active, and have not experienced any respiratory issues since being discharged. For purposes of clemency and equity consideration, the Board noted you provided post-discharge medical documentation.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined you were appropriately assigned a RE-3E reentry code based on your diagnosis of Asthma and erroneous entry discharge. In making this finding, the Board determined that an RE-3E reentry code may be assigned when a CO determines a RE-3E reenlistment code is warranted. The Board also noted that an RE-3E reenlistment code can be waived at the discretion of your local recruiting command. Finally, despite evidence that you no longer suffer from Asthma, the Board noted that your Asthma became symptomatic during your active duty service. Therefore, the fact your symptoms decreased or no longer exist upon your release from the military was not persuasive evidence that you merit an unrestricted reentry code. Therefore, the Board affirmed its previous decision to assign you the RE-3E reentry code.

While the Board carefully considered the evidence you provided in mitigation, 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 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,

2/27/2024

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