



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

█  
Docket No. 1180-24  
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 reconsideration application on 9 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).

You enlisted in the U.S. Marine Corps and began a period of active duty service on 6 May 2002. Your pre-enlistment physical examination, on 1 May 2002, and self-reported medical history both noted no neurologic or psychiatric conditions and/or symptoms. According to a Statement of Understanding (SOU) you signed as part of your enlistment application, a primary incentive (job skill) you were enlisting for was "equipment/vehicle repair option."

On 26 September 2002, your command issued you a "Page 11" warning (Page 11) noting your absence from your appointed place of duty. The Page 11 warned you that any further disciplinary infractions or continuation of deficient performance may result in disciplinary action and/or processing for administrative discharge.

In January 2003, you underwent a medical examination at ██████████. You were diagnosed with a generalized anxiety disorder, obsessive-compulsive traits, and dyspepsia. The Medical Officer determined you were unsuitable for further military service.

On 27 January 2003, your command issued you a Page 11. This Page 11 documented your diagnosed personality disorder that was of such severity to adversely affect your ability to function effectively in a military environment. The Page 11 advised you that a failure to take corrective action and any UCMJ violations may result in judicial or adverse administrative action. You elected not to submit a Page 11 rebuttal statement.

On 5 February 2003, your command issued you another Page 11 noting certain deficiencies. The Page 11 documented your unsatisfactory performance as evidenced by your lack of motivation to show acceptable improvements in your abilities to manage stress and stability to function effectively in the military as it related to your diagnosed personality disorder. The Page 11 noted that you continued to demonstrate an inability to adjust to military life by not improving your attitude and motivation level.

On 13 February 2003, your command documented in your service record that you were ineligible for reenlistment due to your personality disorder, and that you would be assigned an RE-3P reentry code upon separation. Ultimately, on 13 February 2003, you were discharged from the Marine Corps with an Honorable characterization of service, and assigned a separation code of "JFX1" and an "RE-3P" reentry code. The "JFX1" separation code corresponds to the narrative reason for separation of "personality disorder," and was the appropriate designation in cases such as yours. In this regard, you were assigned the correct characterization, narrative reason for separation, and reentry code based on your factual situation.

On 19 September 2018, the Naval Discharge Review Board (NDRB) granted you partial relief. The NDRB changed your narrative reason for separation and separation code to "Condition, Not a Disability" (CNAD) and "JFV1," respectively. The NDRB did not change your reentry code. The NDRB determined that CNAD was a more appropriate narrative reason for separation and, therefore, should be changed.

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 discharge date, discharge reason, and reentry code. In addition, you seek back pay and removal of any derogatory information from your record. You contend that: (a) you were improperly discharged in 2003, (b) your discharge should be corrected to May 2009 when your discharge was perfected by issuing your DD Form 214, (c) you should receive back pay as required by fact and law, (d) there is a clear presumption of irregularity including obviously forged documents, fabricated implausible medical records diagnosing you of a defamatory untrue mental illness, denial of legal due process, plain violations of separation regulations and requirements, and other obvious irregularities sufficient to award you full relief, and (d) your separation in 2003 as a matter of fact and law was not perfected until 2009. For purposes of clemency and equity consideration, the Board considered the evidence you submitted in support of your application.

After thorough review, the Board concluded these potentially mitigating factors and contentions were insufficient to warrant relief. First and foremost, the Board determined that there was no credible and convincing evidence in the record regarding any command misconduct, improper motives, or abuses of discretion in the investigating, handling, and processing of your administrative separation. The Board determined that your administrative separation was legally and factually sufficient.

The Board determined that you were appropriately referred and properly evaluated at ██████████, and that your personality disorder diagnosis was based on observed behaviors and performance during your brief period of active duty service, the information you chose to disclose, and the psychological evaluation performed by the Medical Officer at ██████████. Thus, the Board determined that there was no convincing evidence your personality diagnosis was in error. The Board further determined that the circumstances surrounding your separation appeared to be consistent with your diagnosed personality disorder and inability to adapt to the military environment; a fact thoroughly documented by your command in their counselings to you. The Board also determined there was insufficient evidence the circumstances of your separation could be attributed to a mental health condition, other than your diagnosed personality disorder. The Board also noted that the available 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 concurred with the NDRB's 2018 corrections to your DD Form 214. The Board determined that it would be an injustice to label one's discharge as being for a diagnosed character and behavior disorder. Describing your service in this manner attaches a considerable negative and unnecessary stigma, and fundamental fairness and medical privacy concerns dictated a change. Accordingly, the Board concluded that your discharge should not have been originally labeled as being for a mental health-related condition, and the Board concurred with the NDRB's 2018 remedial administrative changes to your DD Form 214.

Notwithstanding, the Board did not find a material error or injustice with your RE-3P reentry code. The Board noted that the RE-3P reentry code directly corresponds to: "failure to meet physical/medical standards," and was an appropriate and permitted designation given the totality of the circumstances in your case. The Board further noted that the RE-3P reentry code may not prohibit reenlistment, but requires that a waiver be obtained, and that recruiting personnel are responsible for determining whether you meet the standards for reenlistment and whether or not a request for a waiver of the reentry code is feasible. Accordingly, the Board concluded you were assigned the correct reentry code based on the totality of your circumstances, and that such reentry code was proper and in compliance with all Department of the Navy directives and policy at the time of your discharge.

The Board disagreed with your contention that your discharge was not "perfected" until you received the reissued DD Form 214 dated 20 May 2009. The Board concluded your Marine Corps service came to an end, on 13 February 2003, when you were released from active duty. Contrary to your claim, the Board determined a reissued DD Form 214 does not imply that you were still subject to military jurisdiction and should therefore receive back pay until such time as you received the reissued DD Form 214. In the Board's opinion, the term "reissued" confers no



such entitlement. The Board found that a reissued DD Form 214 generally means that it was reissued for certain administrative reasons pertaining to official recordkeeping, such as the original DD Form 214 was either illegible, lost, or not entered into the official service record at the time of discharge. It does not imply: (a) that you never received a DD Form 214 when you were honorably discharged on 13 February 2003, and/or (b) that you were sent to your home of record without being formally administratively separated while your enlistment continued to remain in force. Absent regulatory, statutory, or judicial evidence to the contrary, the Board was not persuaded by your arguments. In reviewing the case law you provided, the Board noted the circumstances of that case are dissimilar to yours and, therefore, the case was determined to be inapplicable.

Further, the Board was not persuaded by your unsubstantiated contentions not specifically previously addressed herein, including but not limited to, certain fraud and forged documents and fabricated medical records. The Board concluded that you provided no convincing evidence to overcome the presumption of regularity.

Therefore, absent a material error or injustice, the Board declined to make certain additional changes to your DD Form 214 or grant you back pay for time you did not actually serve on active duty. While the Board carefully considered the evidence you submitted 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 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,

2/27/2024

