



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. 2761-24
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 16 April 2024. The names and votes of the members of the panel 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 this 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will 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.

The Board carefully considered your request to modify your DD Form 214 by adding the Global War on Terrorism Service Medal (GWOTSM), changing the type of separation from "Involuntary Discharge" to "Release from Active Duty" or "Discharged," and changing the reentry code from "RE-4" to "RE-1C." You also request to modify the fitness report for the reporting period 31 July 2001 to 31 March 2002 by removing the adverse attribute mark for judgement and the Section I comments. The Board considered your contention that the GWOTSM was enacted/awarded retroactively. You separated from active service in 2002 and the GWOTSM award was not approved until 2003. You claim the erroneous information in your fitness report has been used against you and your former spouse made claims which were investigated by the Criminal Investigations Division (CID) and unsubstantiated. You also claim that you were never the subject of Article 15 proceedings or afforded any rights of the accused

under UCMJ. You also contend the type of separation misrepresents the circumstances of your departure from military service. The words "Involuntary Discharge" lends to the notion that you were "kicked out" before your time, when you fulfilled all obligations.

The Board noted that you received an adverse fitness report for the reporting period 31 July 2001 to 31 March 2002 documenting substantiated findings of a level three domestic violence, and you were "found culpable by the Commanding Officer." Your reporting officials did not recommend promotion or retention. The Reporting Senior (RS) justified his recommendation due to your inappropriate behavior and questionable leadership. You acknowledged the fitness report and marked "I have no statement to make." The Board also noted that you were discharged on 4 September 2022 with an Honorable characterization of service, separation type "Involuntary Discharge," and RE-4 reentry code.

The Board determined that your type of separation and reentry code are valid, in accordance with the Marine Corps Separation and Retirement Manual (MARCORSEPMAN). According to the MARCORSEPMAN, types of separation, "involuntarily separated, discharged, or released from active duty" include all forms of separation under conditions where the Marine is released from active duty at any time prior to the completion of a stipulated period of active service or tour of active duty and not at the Marine's own request, or denied reenlistment or extension on active duty. Based on your reporting officials' recommendations that you not be promoted or retained, and your receipt of separations pay, the Board determined there is sufficient evidence that you were denied reenlistment and separated involuntarily. Accordingly, you were properly assigned reentry code RE-4, which is applicable for individuals not eligible to reenlist or those that will require an Exception to Policy waiver to reenlist. Reentry code RE-1C is not applicable to your case since it pertains to individuals that do not possess scores of 85 or higher in any three or more aptitude areas of the ASVAB but are otherwise qualified for enlistment. The Board found no evidence of the purported CID investigation or unsubstantiated claims and you provided none. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting a change to your type of separation or reentry code. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Concerning your request for the GWOTSM, the Board determined that you have not exhausted your administrative remedies. In this regard, MARADMIN 499/04 established criteria for the GWOTSM, you must submit a request to the Marine Corps Policy and Veteran Verification Unit (MMPB-32). Request Pertaining to Military Records (Standard Form 180) is the official form used to request verification and/or replacement of awards information from military records. The SF-180 must be filled out completely, as detailed as possible, and signed.

Concerning your request to remove your fitness report, the Board determined that you have not exhausted your administrative remedies. In accordance with the Marine Corps Performance Evaluation System Manual, the Performance Evaluation Review Board (PERB) is the initial agency for fitness report appeals, therefore you must submit your request to the PERB prior to this Board taking any action on your request.

The Board did note a potential discrepancy between the half separations pay you received and the separation code JBK1 noted on your DD Form 214. If you choose to address this

discrepancy, you are required to complete and submit a new DD Form 149 to explain why you feel this discrepancy amounts to an injustice.

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,

5/1/2024

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