



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. 5297-24

Ref: Signature Date

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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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 5 July 2024, has carefully examined your current request. 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.

On 9 April 2021 the BCNR denied your initial petition for relief. The facts of your case remain substantially unchanged. However, on 30 November 2023 the NDRB upgraded your discharge characterization to General (Under Honorable Conditions) but did not make any other conforming changes to your DD Form 214. Unfortunately, the Board noted that the complete NDRB package was not in your service record and you only submitted the NDRB award package cover page with your BCNR petition. As a result, the Board was unable to determine the rationale and reasoning for NDRB's upgrade relief.

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 (RE) code and contentions that: (a) you are making the request to change your RE code so that you may become a Chaplain in the US military, (b) in the past fifteen (15) years you have grown in maturity and have documentation to show proof, (c) your current RE code does not represent your character or allow you to reach your full potential and purpose, (d) throughout your journey, you have remained committed to serving others and giving back to your community, and you have actively participated in various fraternities and community organizations, engaging in volunteer work and mentorship programs, (e) your dedication to service and your deep-rooted faith have guided you to pursue further education in ministry, with the ultimate goal of ministering to service members in need, (f) you write today as a transformed man, shaped by adversity and strengthened by resilience, (g) you have overcome numerous obstacles and emerged as a devoted husband, father, and servant leader, (h) your desire to serve as a chaplain stems from a profound sense of purpose and a calling to support and uplift your fellow service members, who face unique challenges and hardships, and (i) you are appealing to the Board's sense of compassion and understanding, and you ask for mercy and forgiveness as you petition for a change in your re-enlistment code, allowing you the opportunity to fulfill your calling and continue your journey of service to God and your country. 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. The Board did not believe that your record was otherwise so meritorious as to deserve a change in your reenlistment code. The Board concluded that significant negative aspects of your conduct and/or performance greatly outweighed any positive aspects of your military record. The Board determined that characterization under OTH or GEN conditions with an accompanying RE-4 reentry code is generally warranted for misconduct and is appropriate when the basis for separation is the commission of an act or acts constituting a significant departure from the conduct expected of a Marine. The Board determined that the record clearly reflected your misconduct was intentional and willful and indicated you were unfit for further service. Moreover, the Board noted that the 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.

Additionally, absent a material error or injustice, the Board declined to summarily upgrade a discharge or reentry solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities. As a result, the Board determined that there was no impropriety or inequity in your reentry code, and the Board concluded that your misconduct and disregard for good order in discipline clearly merited your discharge and RE-4 reentry code. While the Board carefully considered the evidence you submitted in mitigation and commends you for your post-discharge accomplishments, 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. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to

outweigh the seriousness of your misconduct. 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,

7/16/2024

