



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

■
Docket No: 7835-21
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 2022. 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 into the Navy's Delayed Entry Program (DEP) on 22 February 2005. You were to begin your period of active duty on 23 May 2005. However, on 10 March 2005, you were informed by the Medical Section of the Jackson Military Entrance Processing Station (MEPS) that your blood sample you provided during your medical examination showed the Human Immunodeficiency Virus antibody. As a result, on 15 March 2005, in accordance with naval regulation you were administratively separated from the DEP with an uncharacterized entry-level separation by reason of medical disqualification.

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 upgrade your discharge character of service. The Board considered your contention that you joined the DEP Pool in November of 2004. You understand that you joined the DEP on 22 February 2005. This was also your first time swearing in at the MEPS. You further state that you reported again to MEPS while in the DEP Pool on 23 May 2005 as per your contract, you were told that you would be leaving in October of 2005. Additionally, according to records you were released of your duties on 10 November 2005, 240 days after 15 March 2005. From the date of 22 February 2005 of enlistment into DEP Pool through 10 November 2005 is 261 day.

Based upon this review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Applicable regulations authorize an uncharacterized entry-level separation if the processing of an individual's separation begins within 180 days of the individual's entry on active service. The Board noted you did not obtain a continuous period of active duty service, and therefore your characterization of service was properly documented as uncharacterized entry-level separation. The Board did not find evidence of an error or injustice that warrants upgrading your characterization of service. 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,

2/14/2022

