



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

█
Docket No: 618-22
Ref: Signature Date



Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 for Correction of Naval Records, sitting in executive session, considered your application on 4 February 2022. 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 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).

On 15 June 2001 you signed a four-year U.S. Navy enlistment contract with an "SM" school guarantee. You entered the Delayed Entry Program (DEP) and were ordered to report by 13 August 2001 for enlistment in the regular component of the U.S. Navy.

Unfortunately, you did not report as directed by the 13 August 2001 date. As a result, on 26 October 2001 the Navy placed a "Page 13" entry (Page 13) into your service record stating you were administratively separated on such date with an uncharacterized separation listing a stated reason of "Refused To Obligate." The Page 13 entry noted that your reenlistment may not be effected without the prior approval of the regional Navy Recruiting District Commanding Officer.

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: (a) you are requesting a discharge upgrade in order to apply for VA health care and benefits, (b) it was not your fault for failing to comply with military regulations, (c) you were not contacted by your recruiter when you were detained by civilian police, and (d) you were not afforded the opportunity to correct the issue. However, based upon this review, the Board still concluded that given the totality of the circumstances your request does not merit relief.

The Board determined that your Navy service records contain no known errors. You simply failed to report as directed under the terms of your enlistment contract and you were promptly separated from the DEP. The Board concluded that a discharge upgrade is also a factual impossibility in your case given that you never served on active duty. Additionally, absent a material error or injustice, the Board generally will not summarily make corrections to service records solely for the purpose of facilitating VA medical and other benefits, or enhancing educational or employment opportunities. Even in light of the Wilkie Memo and reviewing the record holistically, the Board determined that there was no impropriety or inequity in your discharge and that such discharge action was in accordance with all Department of the Navy directives and policy at the time of your separation.

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,

2/13/2022

█
Executive Director
█