



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

█  
Docket No. 6656-22  
Ref: Signature Date

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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 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 27 February 2023. 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, 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).

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 issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

On 31 July 1990, you enlisted in the Naval Reserves for a period of 8 years. On 16 October 1990, you began a period of active duty and agreed to extend your enlistment for 24 months in the Naval Reserves. On 8 March 1991, a Medical Board diagnosed you with the following conditions: Anterior Cruciate Ligament Tear, Right Knee, Status Post Ligament Reconstruction, ETPE, not aggravated, and Patellofemoral Syndrome Bilaterally, ETPE, not aggravated. As a result, you were deemed unfit for further Naval service and recommended for separation based on your preexisting disability conditions. Ultimately, on 28 March 1991, you were discharged with

an Entry Level Separation (ELS) characterization of service by reason of a physical disability existing prior to entry.

On 1 March 1992, this Board denied your initial application to change your reentry code. On 1 March 1994, this Board granted your reconsideration request for a reentry code upgrade from RE-4 to RE-3P.

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 for a discharge upgrade and contentions that: (a) this Board previously recommended that all entries inconsistent with your new reentry code assignment be corrected, or completely removed, and (b) you enlisted as a full enlistee and not as a reservist.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that you were correctly assigned an uncharacterized entry level separation based on the circumstances of your case. Your record reflects that you were notified of the initiation of your separation approximately 166 days after entering active service. Service regulations direct the issuance of 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. While a characterization may be issued in cases of extraordinary personal performance or misconduct, the Board found that neither of those exceptions to policy apply in your case. 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 the 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,

3/21/2023

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Executive Director  
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