



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

█  
Docket No: 6745-22  
8094-14  
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel, sitting in executive session on 30 September 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 in the Marine Corps and began a period of active service on 8 March 1999. Upon being diagnosed with scoliosis, you were counseled on 6 August 1999, and notified your diagnosis hindered you from the ability to train, and you were notified continued deficiencies may result in the initiation of administrative separation proceedings. On 10 August 1999, 155 days from your date of entry, you were notified of the initiation of administrative separation proceedings due to your physical condition not considered a disability. On the same day, you waived your right to consult with counsel. On 20 August 1999, the separation authority approved and directed your separation with an uncharacterized character of service by reason of

convenience of the government due to a physical condition not considered a disability. On 3 September 1999, you were so discharged and issued an RE-4 reentry code.

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 the character of your discharge to General (Under Honorable Conditions) or Honorable, and change your reenlistment code to RE-2B/RE-2C. You contend that after experiencing back pain in infantry school, and seeking treatment, you were not returned to training. You believed you were not given the opportunity to complete your training, and you cannot receive veteran's benefits based on your current characterization of service.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your discharge at the convenience of the government, within your first 180 days of active duty service, outweighed these mitigating factors. Your record clearly documents that you were notified of the initiation of your separation proceedings 155 days after entering active service. Applicable regulations authorize the assignment of an uncharacterized characterization of service if the processing of an individual's separation begins within 180 days of the individual's entry on active service. As a result, the Board found no error or injustice in your record, and determined based on the record, you were issued the appropriate character of service. Absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. Regarding your request for a change in your reentry code, the Board concluded your assigned code remains appropriate in light of your unsuitability for further military service due to your medical condition. Absent evidence to the contrary, the Board applied the presumption of regularity in determining you were accurately diagnosed and appropriately determined to be unsuitable for military 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,

10/20/2022

█  
█

█