



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

█  
Docket No: 7786-22  
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 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 2 December 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 to the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

You enlisted in the Marine Corps and began a period of active duty on 25 February 1997. You were seen by the Battalion Aid Station, on 10 March 1997, with a diagnosis of shin splints and a left tibia stress fracture. You were administratively counseled, on 12 March 1997, that you were being dropped from training due to stress fractures and you were subsequently reassigned to the casual platoon. You were notified on 30 April 1997 that you were being processed for administrative separation due to erroneous entry based on not being physically qualified for enlistment due to biomechanical abnormalities. You waived consultation with legal counsel and were discharged, on 8 May 1997, in an entry-level status for failure to meet regulatory physical standards for enlistment with an uncharacterized service following a period of 2 months and 14 days of total active duty time.

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 and your contentions that you were a drilling reservist for a year prior to beginning your initial active duty training

period and that you suffered an injury during your first month of training for which you were not afforded any hospital follow up for evaluation after the initial diagnosis. Instead, you assert that you were discharged with minimal paperwork within about a week, leaving you feeling railroaded out of the service. For purposes of clemency and equity consideration, the Board noted you provided a personal statement.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that you were properly discharged for erroneous enlistment with an uncharacterized entry-level separation. The Board noted that your records specify that the basis of your erroneous enlistment was due to pre-existing biomechanical abnormalities which, had they been known prior to your entry to active duty, would have rendered you medically disqualified from enlisting. Notwithstanding your contentions regarding your initial service in the reserves, the Board additionally observed that your character of service is based on your period of active duty. In your case, that period of service was less than 90 days, placing you in an entry-level status. In light of your entry-level active duty status, the Board determined that you did not qualify for an "Honorable" characterization of service under regulations in place at the time because it did not meet the minimum threshold of 180 days of active duty service. In reviewing your record, the Board found no evidence to reflect that you met the regulatory criteria for characterized service. As a result, the Board concluded your narrative reason for discharge and uncharacterized entry-level separation remain appropriate. 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 changing your narrative reason for separation, granting you an Honorable characterization of service, or granting relief as a matter of clemency or equity. 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 is attached 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,

12/23/2022

