



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

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Docket No. 1241-23
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 31 March 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, and applicable statutes, regulations, and policies, to include the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

During your application for enlistment into the Marine Corps, your recruiter annotated your Record of Military Processing regarding the need to follow up to verify your education because school records could not be obtained until 15 August 1996. At the time of the verification, you certified that you had completed education through grade 11 and provided a record of your earned credits.

You began a period of active duty in the Marine Corps on 29 January 1997. However, an immediate stop was placed on your entry-level training and you were notified of proposed administrative action due to erroneous enlistment. Verification of your erroneous enlistment was documented from your own statement as well as an interview with your recruiting station, which confirmed that your education level was tier III because you had insufficient education or test scores to meet the minimum education requirements required for enlistment into the Marine Corps. As a result, you were notified, on 7 February 1997, of separation proceedings for erroneous entry due to failure to meet educational requirements. You consulted with legal counsel, requested to submit a statement in rebuttal, and contacted your elected official

requesting that your pending discharge be expedited due to your concern that you might languish in the “casual” platoon for months without final action on your status.

On 11 February 1997, annotation of proposed administrative action found that you were not retainable due to erroneous enlistment. A recommendation for entry-level separation due to your failure to meet minimum education requirements was forwarded and approved. You were discharged, on 14 February 1997, after 16 days of active duty, with “Uncharacterized” service in accordance with applicable regulations. At the time your Certificate of Discharge or Release from Active Duty (DD Form 214) was issued, block 15.b. “High School Graduate or Equivalent” was marked with an “X” under the “Yes” data block.

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 uncharacterized 16-day period of service to either “Honorable” or “General (Under Honorable Conditions)” as well as your contentions that you were honest regarding your education level, that your recruiter was solely responsible for your erroneous enlistment, that you did not earn your GED until after your discharge despite the annotation in your DD Form 214, and that you have been “denied” employment due to your “Uncharacterized” discharge because employers require that your discharge either be Honorable or Under Honorable Conditions.

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 and assigned an uncharacterized entry-level separation.

With respect to the contended error you point out regarding the education level documented in your DD Form 214, the Board noted that correction of this error to reflect your previous lack of education would presumptively not be to your benefit, nor have you explicitly requested such correction or provided contentions to address why you believe correcting this error would do more good than harm.

Regarding your contentions that your discharge characterization constitutes an injustice, the Board observed that involuntary discharges while in an entry-level status, which is defined by a period of active service totaling 180 days or less, shall, by Department of Defense regulations, be identified as “Uncharacterized” unless there is a misconduct basis for which an Other Than Honorable discharge might be justified or, in extremely rare occasions for which a service member’s performance of duty is of such a superlative nature as to merit extraordinary consideration of an “Honorable” discharge, in which case such decisions are at the sole discretion of the Secretary of the Navy. The Board noted that an “Uncharacterized” period of service is not considered negative or adverse in any regard; rather, it merely identifies that a circumstance arose during your entry-level period which resulted in the termination of your active service. The Board recognizes that there are certain narrative reasons for separation which, independent of “Uncharacterized” service, might be interpreted as unfavorable – such as a misconduct discharge for which service remains uncharacterized or for fraudulent enlistment, for which the failure to meet minimum induction standards is attributed to false or omitted information on the part of the service member. However, with respect to you erroneous enlistment, the Board found no evidence of prejudice because it merely reflects that, during the

course of your enlistment processing, the service – not you – made a mistake in assessing your educational qualification for enlistment.

To the extent that you assert you have been denied employment due to “Uncharacterized” service, the Board determined its purview does not extend to upgrading a discharge solely for the purpose of improving employment or education opportunities. However, the Board found it appropriate to provide you with written clarification of the nature of your characterization and the fact that “Uncharacterized” service is, unequivocally, not considered to be an adverse discharge. It simply reflects that you served less than 181 days of active duty prior to your separation. 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,

4/18/2023

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Executive Director

Signed by: █