



**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. 6573-23  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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.

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 16 February 2024. 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).

You enlisted in the U.S. Navy and began a period of active duty service on 26 April 1988. Your pre-enlistment physical examination, on 15 April 1987, and self-reported medical history both noted no psychiatric or neurologic conditions or symptoms. You expressly answered “no” to any and all mental health-related questions on your medical history form.

On 31 May 1988, your command issued you a “Page 13” counseling warning (Page 13). The Page 13 documented certain deficiencies in your performance and/or conduct, to include a lack of reasonable effort with your military duties/responsibilities. The Page 13 advised that you need to correct your deficiencies by demonstrating a positive attitude towards continued naval service, improving your performance, and by passing future military inspections. The Page 13 warned you that any further deficiencies in your performance and/or conduct may result in

disciplinary action or processing for administrative separation.

On 6 June 1988, you underwent a knee x-ray. The x-ray did not note any fracture or major bony abnormalities. The Board noted your medical records never indicated you suffered a broken kneecap on active duty.

On 15 June 1988, you underwent a psychiatric evaluation. You disclosed during the examination that you took prescription Ritalin from birth to age fourteen (14) for hyperactivity, and that pre-service you were admitted to a hospital on a psychiatric unit for medication adjustment and testing. The Board noted that you did not disclose any of these facts and circumstances on your enlistment application. The Medical Officer determined during your evaluation there was no evidence of a thought disorder and that you were not psychotic at such time.

On 22 July 1988, your command provided you notice that you were being administratively processed for an entry level separation (ELS) by reason of entry level performance and conduct due to a lack of reasonable effort. You elected your rights in writing in connection with your pending administrative separation. On 12 August 1988, your command recommended to the Separation Authority that you be separated with an ELS due to your lack of reasonable effort. Ultimately, on 26 August 1988, you were discharged from the Navy with an uncharacterized ELS discharge, given your brief length of service, and assigned an RE-4 reentry code. In this regard, you were assigned the correct characterization and reentry code based on your factual situation at the time as you were still within your first 180 days of continuous military service and had not yet completed initial recruit training.

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) during boot camp you had some problems with the physical endurance, but you felt you would get better at it with training, (b) you were injured during “correctional motivation training” and you cracked your knee cap, (c) during your time in boot camp you were mentally and emotionally tormented, (d) you were talked down to almost every day with no encouragement or positive motivation whatsoever, and (e) you are seeking to correct the injustice that was done to you roughly thirty-five (35) years ago. Additionally, the Board noted you checked the “PTSD” box on your application but chose to not provide supporting medical evidence for your claim. For purposes of clemency and equity consideration, the Board considered the entirety of the evidence you provided in support of your application.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. The Board determined that your Navy service records, and DD Form 214 maintained by the Department of the Navy contained no known errors. Based on your precise factual situation and circumstances at the time of your discharge, the Board concluded that your command was justified in assigning you an uncharacterized ELS and an RE-4 reentry code. The Board concluded that your behavior and conduct in basic training was a prima facie case for an ELS due to a lack of reasonable effort and your substandard performance and conduct. The Board further concluded your record while in basic training was consistently hallmarked by

disobedience, malingering, a lack of motivation, and insubordination. The Board also concluded that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should otherwise not be held accountable for your actions.

Additionally, the Board noted that a fraudulent enlistment occurs when there has been deliberate material misrepresentation, including the omission or concealment of facts which, if known at the time, would have reasonably been expected to preclude, postpone, or otherwise affect a Sailor's eligibility for enlistment. The Board determined that you had a legal, moral, and ethical obligation to remain truthful on your enlistment paperwork. The Board concluded that had you properly and fully disclosed the extent of your pre-service mental health history, there was a likely chance you would have been disqualified from enlisting in the Navy.

Moreover, the Board noted that separations initiated within the first 180 days of continuous active duty will be described as uncharacterized ELS except when an Honorable discharge is approved by the Secretary of the Navy in cases involving unusual circumstances not applicable in your case. Finally, 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. As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your lack of reasonable effort, failure to train, and disregard for good order and discipline clearly merited your uncharacterized ELS discharge. While the Board carefully considered the evidence you submitted in mitigation, 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 granting you the relief you requested 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 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,

2/29/2024

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