



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. 7926-23
Ref: Signature Date

Dear ■■■■■

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 23 October 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 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).

You were appointed a Midshipman in the United States Naval Reserve and agreed to a six-year term of obligated service on 17 August 1983. You reported to your Naval Reserve Officers Training Corps (NROTC), ■■■■■ University, ■■■■■ unit on the same day. On 9 August 1985 you signed an agreement to extend your obligation for an additional twenty-one months.

On 2 September 1986, the NROTC Academic Review Board recommended your disenrollment from the program due to repeated academic insufficiency and a GPA consistently below the minimum required. On 26 Nov 1986, you were dis-enrolled from the NROTC program for academic reasons, transferred to Naval Reserve Readiness Command, and notified you would commence a period of two years active enlisted service upon graduation or disenrollment from Miami University, whichever occurred sooner.

On 26 August 1988 you were involuntarily recalled to active duty and reported to Recruit Training Center, ■■■■■, ■■■. On 29 September 1988, a medical board recommended you be

discharged by reason of enlisted in error, failure to meet enlistment physical standards. The Board noted that you failed to disclose a preexisting and disqualifying injury to your right knee that occurred prior to your entry into the Navy. Subsequently, you were notified of pending administrative separation processing for defective enlistment and induction due to erroneous enlistment. You waived your right to make a statement, indicated that you did not object to the discharge, and were discharged on 17 October 1988 with an uncharacterized entry level separation.

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 change your discharge characterization of service and your contentions that were injured on active duty and should be able to receive benefits.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your uncharacterized entry level separation remains appropriate based on your 52 days of active duty service. Service regulations direct the assignment of an uncharacterized entry level separation to service members processed for separation within their first 180 days of active service. While there are exceptions in cases involving extraordinary performance and misconduct, the Board determined neither exception applied in your case. Further, 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. Finally, the Board concluded you did not incur or aggravate your knee condition while on active duty based on the medical board report. Absent substantial evidence to the contrary, the Board determined the presumption of regularity applies toward the findings of the medical board. Therefore, 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,

11/7/2023

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Executive Director

Signed by: █