



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. 8353-23
Ref: Signature Date

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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 5 January 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 Navy and commenced a period of active duty on 5 September 1991. Between 12 October 1991 to 19 December 1991, you were counseled on three occasions regarding your failure to meet academic requirements and notified further deficiencies may result in the initiation of administrative separation proceedings. On 23 December 1991, you were notified of the initiation of administrative separation proceedings as a result of defective enlistment and induction due to erroneous enlistment. You were processed based on your inability to speak English well enough to complete remedial academic training. You waived your procedural rights and, on 24 December 1991, were discharged with an uncharacterized entry-level separation by reason of erroneous entry.

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 to allow you the ability to receive veterans' benefits. Additionally, you contend your date of birth is incorrectly reflected on your DD Form 214. The Board noted you checked the "Other Mental Health" box on your application but chose not to respond to the Board's 24 November 2023 letter requesting supporting evidence for your claim. For purposes of clemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

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. Service regulations direct the issuance of an uncharacterized entry-level separation in cases where a member is processed for separation within their first 180 days of active duty service. You were separated approximately 110 days after commencing active duty. While there are exceptions to this policy in cases involving extraordinary performance or 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 found no evidence you were discharged as a result of a medical condition. The Board noted you provided no evidence to substantiate your contention and your record documents you were discharged based on your inability to meet minimum academic standards for speaking English.

Regarding your request for a change to your date of birth, the Board found no error or injustice based on the lack of any evidence supporting your claim. At a minimum, the Board requires a copy of your birth certificate to support adjustment to the date of birth listed on your Certificate of Release or Discharge from Active Duty (DD Form 214).

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,

1/23/2024

