



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

█  
Docket No. 10475-23  
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 8 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues 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 7 September 2005. On 6 October 2005, you were notified of your pending administrative processing by reason of defective enlistment and induction due to erroneous enlistment and fraudulent entry into naval service due to your failure to disclose your chronic right ankle pain and instability, which existed prior to your entry into service. You waived your right to consult with counsel and to submit a written statement for consideration by the Separation Authority and elected your right to obtain copies of documents to be forwarded to the Separation Authority. On 17 October 2005, you were discharged with an uncharacterized entry-level separation due to fraudulent entry into naval service.

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 “blank out” your narrative reason for separation. You contend that: (1) when you signed your separation notification procedures you were under the impression that you would receive a General (Under Honorable Conditions) characterization of service, (2) the paperwork you signed “emphatically” stated this, (3) it is this condition that you agreed to when you elected and waived your respective rights, and (4) you feel the Navy failed to follow its own rules and regulations. For purposes of clemency and equity consideration, the Board noted you provided OMPF and department of veterans’ affairs documents.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board found no error or injustice with your assigned uncharacterized entry level separation for fraudulent enlistment. The Board noted you served 41 days on active service and applicable regulations authorize an uncharacterized entry-level separation if a member is processed for separation within 180 days of the member’s entry on active service. While there are exceptions in cases involving extraordinary performance and misconduct, the Board determined neither applied in your case. Regarding your contention concerning your separation documentation, the Board noted it appropriately states the “least favorable characterization of service possible is General (Under Honorable Conditions).” The Board determined your uncharacterized entry-level separation is not less favorable than a General (Under Honorable Conditions) characterization. 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 warrant 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 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,

1/19/2024

