



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

█  
Docket No. 1196-24  
Ref: Signature Date



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 12 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 Navy and commenced active duty on 23 September 1997. You entered the Navy with a physical standards waiver for mild pes planus.

On 27 October 1997, you were seen at the podiatry clinic complaining of foot pain and were placed on limited light duty for one week due to your pes planus symptoms. You were seen again, on 5 November 1997, with the same complaint with no improvement. On 6 November 1997, you received an Entry-level Medical Separation exam and were diagnosed with Pes Planus, rigid, with pain, which was not correctable to meet Navy standards.

Consequently, on 7 November 1997, you were notified of pending administrative separation processing by reason of defective enlistment and induction due to erroneous enlistment as evidenced by pes planus condition. You waived your rights to consult counsel, submit a statement, or have your case reviewed by the General Court Martial Convening Authority.

The Separation Authority subsequently directed your discharge with an uncharacterized Entry Level Separation. You were so discharged on 14 November 1997 after 52 days of active duty 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 change your discharge characterization of service and your contentions that the Department of Veterans Affairs (VA) determined your service to be Honorable and you served your country with honor.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that applicable regulations authorize an uncharacterized entry-level separation if the processing of an individual's separation begins within 180 days of the individual's entry on active service. While there are exceptions in cases involving misconduct or extraordinary performance, the Board determined neither exception applies in your case. Finally, the Board noted that decisions reached by the VA to determine if former service members rate certain VA benefits do not affect previous discharge decisions made by the Navy. The criteria used by the VA in determining whether a former service member is eligible for benefits are different than that used by the Navy when determining a member's discharge characterization.

As a result, the Board concluded there was no error or injustice in your discharge and your service continues to warrant an uncharacterized entry-level separation. 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,

3/1/2024

