



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. 1115-24
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 22 July 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, 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 began a period of active duty on 25 January 2000. On 7 February 2000, you received a Recruit Evaluation Report as a result of your mental state and refusal to train. You were referred to the REU for evaluation and fitness for retention in the military. On 9 February 2000, you received another Recruit Evaluation Report as a result of your inability to adapt. Consequently, it was determined that you were unmanageable, mentally unsuitable for service, and recommended for administrative separation. On 10 February 2000, you were counseled concerning unauthorized absence (UA) and your continuous pattern of disrespect towards authority. You were advised that failure to take corrective action could result in

administrative separation with an Other Than Honorable discharge characterization of service. However, on 11 February 2000, you began a period of UA from your appointed place of duty. On the same date, you were evaluated by a medical officer as a result of an outburst, treats, and foul language against shipmates and staff. On 12 February 2000, you were evaluated by a medical officer and diagnosed with personality disorder, not specified, with passive/aggressive personality features. Your medical history documented that you were treated in a residential treatment facility from 1993 through 1996 for attention deficit disorder and bipolar disorder. Consequently, you were recommended for entry level separation due to your inability to adapt to military environment. On 14 February 2000, you were notified of the initiation of administrative separation proceedings by reason of physical or mental conditions and erroneous enlistment. You decided to waive your procedural rights and the separation authority approved and ordered an Uncharacterized (Entry Level Separation) by reason of erroneous entry. On 28 February 2000, you were so discharged.

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 characterization upgrade to become eligible for Department of Veterans Affairs (VA) benefits. You contend that the VA has upgraded your discharge and you are seeking mental health treatment as you are trying to get your life back on track. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board noted you were appropriately assigned an uncharacterized entry level separation. Applicable regulations authorize an uncharacterized entry level separation if the processing of an individual's separation begins within 180 days of entry into active service. While there are exception to this policy in cases involving misconduct or extraordinary performance, the Board concluded neither exception applied in your case. Further, the Board noted you were appropriately processed and discharged based on your erroneous enlistment. The Board determined your discharge is supported by the medical evidence included in your records that documents you were treated for disqualifying mental health conditions prior to your entry into the Navy. 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 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 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,

8/9/2024

