

DEPARTMENT OF THE NAVY

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

> Docket No. 4653-24 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 24 June 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 9 August 1989. On 11 January 1990, you were issued an administrative remarks (Page 13) counseling, where you acknowledged that you had been dropped from construction electrician (CE) A-school for medical reasons (fear of heights) and that you were being reassigned to the ship's serviceman (SH) rating. You indicated that you requested the re-assignment and understood that if you were dropped from your second school, you would be available for general reassignment. On 17 January 1990, you were issued another Page 13 counseling where you indicated that you did not desire assignment to alternate training and requested discharge for the convenience of the government.

Consequently, on 25 January 1990, you were notified of pending administrative separation processing with an Entry Level Separation by reason of defective enlistments and inductions – erroneous enlistment. You elected your right to submit a statement to the separation authority in which you stated that you understood your reason for separation and did not object to your discharge. The Separation Authority subsequently directed your discharge, noting that the fact

that you could not complete your training was not the result of any fraudulent conduct on your part. You were discharged with an uncharacterized entry level separation on 26 February 1990.

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 your recruiter misled you about the work you would do in the Navy, you have never been afraid of heights, you were young, pregnant, and scared so you chose the option to go home, and you were recently told that your discharge reason appears as if you entered the military fraudulently. 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 that there was no error in your discharge processing and that your narrative reason for separation accurately reflects the circumstances of your discharge. Specifically, your narrative reason, separation authority, and separation code appropriately indicate erroneous enlistment, not fraudulent enlistment. Erroneous enlistment is used when the deficiency was not known at the time of enlistment and your commanding officer made it clear that he did not believe you fraudulently entered service. Further, you were notified of your separation process within 180 days of the beginning of your period of active service. 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 to policy in cases involving extraordinary performance or misconduct, the Board determined neither exception applied in your case.

Therefore, 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.

