

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

> Docket No. 5800-24 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 threemember panel of the Board, sitting in executive session, considered your application on 5 August 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 active duty on 17 October 1984. On 4 November 1984, you were issued an administrative remarks (Page 13) counseling concerning deficiencies in your academic performance. You were advised that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative discharge. Between 31 October 1984 and 5 December 1984, you were counseled repeatedly for poor performance and conduct. Consequently, you were notified of pending administrative separation processing by reason of entry level performance and conduct. You waived your rights to consult counsel or submit a statement. The Separation Authority

subsequently directed your discharge with an uncharacterized entry level separation and you were so discharged on 17 December 1984.

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 you encountered racism in boot camp that formed the basis of your administrative separation. 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 the potentially mitigating factors were insufficient to warrant relief. Specifically, the Board concluded that your uncharacterized entry level separation remains the appropriate. In making this finding, the Board considered the Page 13 performance and conduct warning you received as well as numerous counseling sessions annotated in your Recruit Performance Remarks documents. Therefore, the Board determined you were appropriately processed and discharged for entry level performance and conduct. Additionally, the Board observed that applicable regulations authorize an uncharacterized entry level separation if the processing of an individual's separation begins within one-hundred-eighty days of the individual's entry on active service. While there are exceptions to policy in cases involving misconduct or extraordinary service, the Board concluded neither applied in your case. Finally, the Board noted you provided no evidence, other than your personal statement, to substantiate your contention that your discharged was based on racism.

As a result, 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.

8/2	26/2024	
Executive Director		
Signed by:		

Sincerely,