



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. 5909-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 case on its merits. A three-member 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 this 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 began a period of active duty on 15 September 1999. On 1 October 1999, you were diagnosed with a specific phobia, natural environment type, which was considered to have existed prior to your entry into service (EPTE). Consequently, you were notified that you were being recommended for administrative discharge from the Navy with an uncharacterized entry level separation by reason of convenience of the government due to physical or mental conditions as evidenced by a specific phobia, natural environment type. You waived your right to consult with counsel and to submit a written statement for consideration by the separation authority (SA). The SA directed your uncharacterized entry level separation

discharge from the Navy by reason of erroneous enlistment and, on 12 October 1999, 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 to upgrade your discharge character of service and contentions that: (1) you were discharged for erroneous enlistment due to your fear of heights, (2) you never meant to defraud anyone, you were never asked about a fear of heights, (3) you were young and a recent high school graduate, (4) your recruiter gave you a lot of paperwork to sign, so you did, and (5) you never intentionally made false statements. For purposes of clemency and equity consideration, the Board considered the supporting documentation you provided in support of your application.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your assigned uncharacterized entry level separation remains accurate. Service regulations direct the assignment of an uncharacterized entry level separation when a service member is processed for separation within their first 180 days of active duty. While there are exceptions to the policy in cases involving misconduct or extraordinary performance, the Board determined neither applied in your case. Additionally, the Board noted you were not processed for fraudulent entry; instead, your discharge indicates you were processed and discharged because you were erroneously allowed to enlist with a disqualifying condition. Therefore, the Board was not persuaded by your contentions regarding lack of intent to defraud the Navy.

As a result, even in light of the Wilkie Memo and reviewing the record liberally and 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,

8/27/2024

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Executive Director

Signed by: █