



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

█
Docket No. 7590-24

Ref: Signature Date

█
█
█

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 9 September 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 Marine Corps and began a period of active duty on 5 September 1996. On 12 December 1996, you were counseled concerning being dropped to MRP due to Epididymitis. On 13 December 1996, you received a recruit evaluation card entry indicating that you were caught sleeping on shadow watch by two other recruits. On 26 December 1996, you received a recruit evaluation card entry stating that you were not motivated and not sure whether if you wanted to be a Marine. On 8 January 1997, you received a recruit evaluation entry concerning your contemptible and immature attitude towards recruit training, and your continuous disregard for authority. On 9 January 1997, you were counseled concerning reassignment to the casual section for incapability to complete recruit training. On 15 January 1997, you received a written

notice of deficiencies as a result of your inability to successfully complete recruit training, not putting reasonable effort, and not adapting to the Marine Corps way of life. Consequently, you were advised that failure to take corrective action could result in administrative separation. On 23 January 1997, you were notified of the initiation of administrative separation proceedings by reason of entry level performance or conduct due to incapability-Orchialgia. Subsequently, you decided to waive your procedural rights. Your commanding officer recommended an Uncharacterized (Entry Level Separation) characterization of service by reason of incapability-Orchialgia. The separation authority approved and ordered an Uncharacterized (Entry Level Separation) by reason of entry level performance and conduct. On 31 January 1997, 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 and contentions that: (a) you were not dishonorably discharged, (b) you were discharged due to medical reasons and your inability to complete training. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

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 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. Finally, the Board found no evidence that you were discharged dishonorably. 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,

9/27/2024

█