



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. 7761-24
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 28 October 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 entered active duty with the United States Navy on 3 June 1991. On 7 June 1991, it was determined that you did not meet military hearing standards. On 11 June 1991, you received a medical evaluation, which diagnosed you with severe lateral hearing loss, a condition that existed prior to enlistment (EPTE). As a result, you were notified of pending administrative separation action by reason of erroneous enlistment due to a condition not a disability. After you waived your rights, your commanding officer (CO) forwarded your package to the separation authority (SA) recommending your discharge by reason of Erroneous Enlistment with an uncharacterized entry-level separation. The SA approved the recommendation, and, on 19 June 1991, 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 to Honorable and contentions that: (1) you were given a dishonorable discharge due to failing a hearing test after passing the entrance physical, (2) you were threatened with the brig after failing a hearing test, (3) you were neglected by your superiors because they did not give you ear plugs while in the pool. For purposes of clemency and equity consideration, the Board noted that you provided supporting documentation describing post-service accomplishments or advocacy letters and medical documentation of your right ear condition.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that you were properly assigned an uncharacterized entry-level separation based on your time in service. Service regulations direct those members discharged within their first 180 days of active-duty service be assigned an uncharacterized entry-level separation. While there are exceptions to this policy for misconduct or exceptional performance, the Board determined that neither apply in your case.

Furthermore, the Board also determined you were properly processed for erroneous enlistment based on your failure to meet enlistment standards due to your preexisting hearing condition. The Board found no evidence you were processed for fraudulently enlisting or that you were assigned a dishonorable characterization of service.

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 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,

11/23/2024

