



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

Docket No. 7796-24

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 6 January 2025. 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).

You enlisted in the Navy and began a period of active duty on 09 June 1992. Upon your enlistment, you received a waiver for pre-service use of marijuana. In addition, your enlistment contract documented that you were authorized advancement to E-2 for having referred a recruit. On 29 June 1992, you were evaluated by a medical officer due to back pain. On 3 July 1992, you were brought to the hospital branch clinic by ambulance as a result of back pain. On 7 July 1992, you were diagnosed with Back Pain, existed prior to entry.

On the same date, you receive a page 13 entry in which you acknowledged that you are no longer eligible for E-2 paygrade as stated in your enlistment contract due to "no basis for E-2." Subsequently, you elected an Entry Level Separation characterization of service in lieu of an Administrative Reduction in Rate. On 8 July 1992, you were notified of the initiation of administrative separation proceedings by reason of defective enlistment and induction due to defective enlistment; at which point, you did not object to be administratively separated. On

10 July 1992, your commanding officer authorized and ordered an Entry Level Separation characterization of service by reason of defective enlistment – failed to receive commitments offered upon enlistment. On 16 July 1992, 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 hurt your back in training and were getting discharged for that reason, (b) your record should not say anything negative and should say Honorable, and (c) your record shows the incident and injury. For purposes of clemency and equity consideration, the Board noted you did not provide any supporting documentation.

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. Further, the Board noted you were appropriately processed and discharged based on your defective enlistment. The Board found no evidence that you were discharged based on your back injury; instead, as explained in your commanding officer's endorsement, you were found not to have qualified for advancement to E-2 as documented in your enlistment contract. You chose to be separated in lieu of being administratively reduced to E-1.

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,

1/17/2025

