



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. 12066-24
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 2 June 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).

You enlisted in the Navy and commenced active duty on 23 March 1999. On 14 April 1999, you were taken via ambulance from boot camp to a military treatment facility with abdominal pain. On 20 April 1999, you were diagnosed with asthma. The next day, you conveyed to medical personnel that you had experienced respiratory problems since joining the Navy; including shortness of breath, chest pain, wheezing, and cough, with problems brought on by cold air, hot air, and physical exertion. On 22 April 1999, you were medically recommended for entry level separation due to asthma – symptomatic exercise related; a condition that existed prior to your entry into the Navy.

Consequently, you were notified of pending administrative separation processing for convenience of the government due to physical or mental conditions as evidenced by asthma.

You waived all rights available to you but for the right to obtain copies of documents used in the separation process. Ultimately, you were discharged with an uncharacterized entry level separation on 29 April 1999.

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 (HON) and change of your narrative reason for separation to “separation by reason of physical disability.” You contend that 1) Your case falls under the MILPERSMAN 1910-309 HON carve-out for Veterans w/ physical disabilities who served briefly yet exhibited commendable service; 2) Your separation reason fails to accurately describe his position and should be changed to “Separation by Reason of Physical Disability;” 3) Your discharge status and service-connected disability have caused you detrimental collateral consequences which weigh in your favor for a grant of relief under the Wilkie Memo; and 4) Your role as a zealous advocate for veterans and as a pillar of your community, along with your exemplary public service record, weighs in your favor for a grant of relief under the Wilkie Memo. For purposes of clemency and equity consideration, the Board considered the totality of your application; which included your DD Form 149 and your legal brief with exhibits.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined you were properly discharged for a preexisting disability condition that was disqualifying for enlistment and assigned an uncharacterized entry level separation. In making this finding, the Board considered your available medical records and concluded you were properly diagnosed with a preexisting asthma condition that was disqualifying for enlistment. This condition prevented you from completing your initial training and properly formed the basis for your administrative separation. Further, while your condition manifested during your initial training period, the Board determined insufficient evidence exists to support a finding that your condition was incurred or aggravated by your brief period of active duty. Therefore, the Board found insufficient evidence that you merited a referral to the Disability Evaluation System or a disability discharge. The Board noted that none of the medical professionals who treated you contemporaneously with your period of active duty determined your condition required a referral to a medical board. Rather, it was their opinion that your condition was not correctable to meet Navy standards, prevented you from completing your initial training, and preexisted your entry into the Navy.

Finally, the Board determined that insufficient evidence exists to support your request for an HON characterization of service. Contrary to your contention that you merit an upgrade, the Board found that your assignment of an uncharacterized entry-level separation was in accordance with applicable service regulations that direct such a discharge characterization for members processed for separation within their first 180 days of active duty. While the Board acknowledged that exceptions exist in extraordinary cases, they determined the circumstances of your case did not meet any exceptions to policy.

Therefore, while the Board carefully considered the evidence you submitted in mitigation and commends you for your post-service character and accomplishments, 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.

Sincerely,

6/16/2025

