



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. 0681-25
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 April 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, 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 after disclosing on your enlistment physical that you had pre-service surgery on your right ankle and commenced active duty on 23 April 1987. During your enlistment processing, you were evaluated by orthopedics where you indicated no pain and no stiffness in your ankle. On 8 May 1987, you reported to medical complaining of ankle pain for the past two weeks. On 21 May 1987, a Medical Board found you had Post-traumatic Degenerative Joint that existed prior to entry and was not aggravated by service. The Board found that you did meet standards for enlistment, should be discharged by reason of erroneous enlistment, and were fit for discharge. You acknowledged this finding and signed a statement indicating you did not wish to make a statement and understood the recommendation of medical board. Consequently, on 22 May 1987, you were notified of pending administrative separation processing with an Uncharacterized, Entry Level Separation (ELS) by reason Erroneous Enlistment. You waived your rights to consult counsel and did not object to the separation. The separation authority concurred with the Medical Board and you were discharged with an uncharacterized entry level separation for erroneous enlistment on 2 June 1987.

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 upgrade and change your reason for separation. You contend that, although you had a pre-existing ankle injury, you were hospitalized after your ankle was further injured during basic training and you believe you are entitled to veterans' benefits. Additionally, you checked the "Other Mental Health" box on your application but chose not to respond to the 28 January 2025 letter from the Board requesting evidence in support of your claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted your petition, personal statement, and the advocacy letter.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board found your assigned uncharacterized entry level separation and reason for separation to be appropriate. First, the Board noted that service regulations indicate that an enlistment, induction, or extension of enlistment is erroneous if it would not have occurred if relevant facts were known by the U.S. Government or if appropriate directives were followed and it was not the result of fraudulent conduct on the part of the enlisted Service member. In reviewing your record, the Board concurred with the findings of the medical board that you did not meet the standards for enlistment based on your preservice condition of Post-traumatic Degenerative Joint and that your condition was not aggravated by your service. The Board noted that there was no evidence in the record, or in your application, to support your contention that you were injured in-service or that you were hospitalized. Therefore, the Board determined the presumption of regularity applies with the findings of the medical board and your administrative separation. Second, the Board further noted that service regulation also direct the assignment of an uncharacterized entry level separation for members processed for separation within their first 180 days of active duty service. While exceptions to policy exist in cases involving misconduct or extraordinary performance, the Board determined neither applied in your case.

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 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,

5/19/2025

