



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

██████████
Docket No. 2118-25
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 7 May 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 entered active duty with the Navy on 11 April 1990. After you reported back pain aggravated by physical training, you were diagnosed with scoliosis, a condition that existed prior to enlistment (EPTE), on 24 April 1990. Consequently, you were notified of pending administrative separation action by reason of erroneous enlistment. After you waived your rights, your commanding officer forwarded your package to the separation authority recommending your uncharacterized entry-level separation (ELS) due to erroneous enlistment. The SA approved the recommendation, and you were so discharged on 17 May 1990.

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 and change your reason for separation. You contend that you were told you would receive an Honorable discharge, your injury was due to intense physical training, you passed the enlistment physical, you are currently seeing a chiropractor due to your condition, you have no money, and you come from a large

military family. For purposes of clemency and equity consideration, the Board considered the totality of your application, which consisted solely of your petition without any other additional documentation.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your uncharacterized ELS for erroneous enlistment remains appropriate. The Board noted that service regulations direct that members discharged within their first 180 days of active duty service be assigned an uncharacterized ELS. While there are exceptions to this policy for misconduct or exceptional performance, the Board determined that neither apply in your case. Further, the Board determined that insufficient evidence exists to change your reason for separation based on the diagnosis of preexisting scoliosis that was disqualifying for enlistment. Further, contrary to your contention that you were told you would receive an Honorable discharge, your statement of awareness, which you signed on 9 May 1990, annotates that you were being discharged with an ELS. Finally, the Board found no evidence you were discharged due to a fraudulent enlistment. As explained above, you were found to have enlisted in error based on a preexisting medical condition that was disqualifying for enlistment. The fact you were able to “pass” your enlistment physical, despite the existence of the disqualifying medical condition, is the Navy error which formed the basis for your erroneous enlistment discharge.

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,

5/27/2025

