



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. 2237-25
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 16 May 2025, has carefully examined your current request. 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 this 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 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo), the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), and 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 Navy on 6 June 2002. On 15 October 2002, you were notified

of administrative separation processing based on your failure to adapt to the Navy environment. Ultimately, you were discharged with an uncharacterized entry-level separation (ELS) on 16 October 2002.

On 25 March 2022 the Board denied your initial petition for relief. On 12 January 2024, the Board again denied your discharge upgrade petition.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Kurta, Hagel, and Wilkie Memos. These included, but were not limited to, your desire for a discharge upgrade and changes to your reason for separation and reentry code. You contend that: (a) you have identified evidence showing cross-record errors in your file, (b) records belonging to another individual were mistakenly included in your service record, leading to inaccuracies on your DD Form 214, (c) the offenses listed against you were not yours, but someone else's, (d) the infractions attributed to you – such as poor behavior and a pattern of misconduct – are not supported by the record in your service record, (e) such infractions were reflected during the administrative separation process, resulting in an unjust characterization of service, and (f) such inclusion strongly indicates that when your separation was processed, someone else's records were mistakenly considered as part of the evidence against you. For purposes of clemency and equity consideration, the Board considered the totality of the evidence you provided in support of your application.

Because you again raised the issue of a mental health condition as part of your application, the Board considered the advisory opinions issued as part of your previous applications. They both concluded that there is insufficient evidence to attribute the circumstances of your separation to a mental health condition.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. First and foremost, the Board determined that there was no credible or convincing evidence in the record regarding any command misconduct, improper motives, or abuses of discretion in the investigating, handling and processing of your administrative separation. The Board is aware of someone else's service record documents being included in your record; however, the Board adjudicated your case on the merits after reviewing only your records. Based on their review, the Board unequivocally concluded that your administrative separation was legally and factually sufficient and that no error materially prejudicial to your substantial rights was committed. Given the presumption of regularity, it was clear to the Board that your entry level performance during your initial training pipeline merited your administrative separation. The Board concluded that the "cross-pollination" of another service member's records in your OMPF, although unfortunate, did not invalidate your administrative separation for the same/similar reasons.

Additionally, the Board again noted that separations initiated within the first 180 days of continuous active duty will be described as ELS except when an Honorable discharge is approved by the Secretary of the Navy in cases involving unusual circumstances not applicable

in your case. Moreover, separations specifically based on entry level performance and conduct¹ shall always be an ELS.

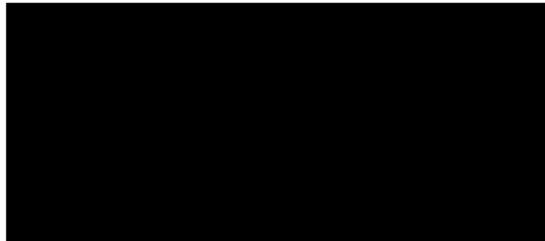
As a result, the Board determined that there was no impropriety or inequity in your discharge, and the Board concluded that your failure to adapt to the naval environment clearly merited your ELS discharge. Even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and holistically, the Board still concluded that insufficient evidence of an error or injustice exists to warrant upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Notwithstanding the foregoing denial, the Board will contact Navy Personnel Command to apprise them of the situation with your service record and request that NPC remove any and all records not belonging to you from your service record.

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,

5/23/2025



¹ MILPERSMAN 1910-154 - Separation by Reason of Entry Level Performance and Conduct. "Characterization of Separation. Description of separation shall always be an Entry Level Separation (ELS)."