



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. 3177-25
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 14 July 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 Marine Corps and commenced active duty on 1 July 2002. On 18 November 2002, you were issued a light duty chit for sesamoiditis of the right, great toe, and bilateral patella-femoral syndrome. At that time, a medical determination was made that you were incapable continued service due to your medical status. On 20 November 2002, you were cleared for medical discharge. Subsequently, your commanding officer recommended your entry level separation for performance and conduct due to incapability related to your diagnoses. You were additionally notified of intended administrative separation processing for entry level separation. You waived all rights available to you in the separation process and indicated you understood you would receive an uncharacterized entry level separation. You were so discharged on 24 December 2002.

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 be issued a DD Form 215 reflecting an

Honorable (HON) discharge and rank upgrade¹, and your contentions that your discharge was upgraded to HON in/or about 2004, the rank on your DD Form 214 is incorrect, and you require issuance of a corrected DD Form 215 in order to apply for benefits with the New York State Police and Fire Retirement System. For purposes of clemency and equity consideration, the Board considered the totality of your application, which included your DD Form 149 and the evidence you provided in support of it.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your assigned uncharacterized entry level separation remains appropriate. Further, the Board found no evidence in your official military personnel file that your characterization of discharge was upgraded to HON². The Board carefully examined the Department of Veterans Affairs (VA) benefits letter you provided and determined that, although that letter indicates you earned an HON characterization of service, the VA's assignment of a characterization of service is done exclusively in order to determine eligibility for VA benefits and is not necessarily reflective of your Department of Defense character of service. Service regulations direct the assignment of an uncharacterized entry level separation for service members processed for separation within their first 180 days of active duty. While there are exceptions to this policy in cases involving extraordinary performance or misconduct, the Board determined neither applied in your case.

As a result, while the Board carefully considered the evidence you provided in mitigation, 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,

7/24/2025

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¹ The Board noted you did not exhaust your administrative remedies with the Marine Corps to correct the paygrade error with your DD Form 214. Therefore, the Board took no action with this aspect of your application. You may contact Headquarters, U.S. Marine Corps to request an administrative correction of your DD Form 214.

² Should you have documentary evidence the Marine Corps, Navy Discharge Review Board, or this Board previously changed your uncharacterized entry level separation to an HON characterization, the Board recommends you submit an application for reconsideration with such supporting evidence.