

DEPARTMENT OF THE NAVY

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

> Docket No. 4191-25 Ref: Signature Date



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 19 August 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 and began a period of active duty on 27 March 2003. On 23 April 2003, you were diagnosed with conductive hearing loss of 50 decibels in the left ear; which did not meet Navy standards for enlistment. Subsequently, you were notified that you were being recommended for administrative discharge from the Navy by reason of defective enlistment and induction due to erroneous enlistment as evidenced by conductive hearing loss. You were advised of your procedural rights and waived your right to consult counsel and to submit a written statement in rebuttal to your recommendation for administrative separation. Ultimately, the separation authority directed your uncharacterized Entry Level Separation (ELS) from the Navy by reason of failure of medical and/or physical procurement standards and you were so discharged on 1 May 2003.

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 character of service so that you may apply for Department of Veterans Affairs benefits. You contend that, although your time in the Navy was short, you served honorably. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Forms 149 without any other additional documentation.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your assigned uncharacterized entry-level separation remains appropriate. Applicable regulations authorize an uncharacterized entry-level separation if the processing of an individual's separation begins within 180 days of the individual's entry on active service. While there are exceptions to policy in cases involving misconduct or extraordinary performance, the Board determined neither exception applies in your case. Based on the record, you affirmatively acknowledged your rights during your administrative separation processing and were appropriately discharged based on a medical recommendation. Consequently, based on the lack of substantial evidence to the contrary, the Board determined the presumption of regularity applies in your case. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans' benefits or enhancing educational or employment opportunities.

Therefore, 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.

