



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

Docket No. 6992-25

Ref: Signature Date

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 11 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 U.S. Marine Corps and began a period of active duty service on 22 January 2008. During your enlistment physical examination at the Military Entrance Processing Station (MEPS) on 24 March 2007, you answered "no" to ever having any "bone, joint, or other deformity," on your medical history. MEPS medical personnel did not discover your scoliosis condition at such time. However, during your initial recruit training, your scoliosis condition was diagnosed after you complained of foot pain. Following the diagnosis you were sent to rehabilitation.

Your command subsequently provided you notice that you were being processed for an administrative discharge from the Marine Corps by reason of defective induction and enlistment into the service due to erroneous enlistment as evidenced by your physical condition (scoliosis) that existed prior to entry into the service. Ultimately, on 1 May 2008, you were discharged from the Marine Corps with an uncharacterized entry level separation (ELS) due to your

erroneous enlistment and assigned an RE-3F reentry code. In this regard, you were assigned the correct characterization, narrative reason for separation, and reenlistment code based on your factual situation as you were still within your first 180 days of continuous military service and had not yet completed initial recruit training.

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 contentions that: (a) when you went through MEPS your scoliosis diagnosis was never found, (b) you spent approximately a month or two in rehab before the discharge occurred, and (c) you are looking to obtain a discharge upgrade because you believe it should have been a medical discharge instead of the erroneous entry and ELS discharge. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted solely of your DD Form 149 and DD Form 214 without any other additional documentation.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. The Board determined that your Navy service records and DD Form 214 maintained by the Department of the Navy contained no known errors. The Board determined that your medical diagnosis and separation for a medically disqualifying pre-existing condition was clinically and medically appropriate. The Board determined there was no evidence in the record to suggest that your active duty diagnosis was erroneous or unjust. Based on your precise factual situation and circumstances at the time of your discharge, the Board concluded that your command was justified in assigning you an ELS and an RE-3F reentry code.

The Board noted that separations initiated within the first 180 days of continuous active duty will be described as ELS except in certain limited Marine Corps cases involving unusual circumstances not applicable in your case, or where processing under a more serious basis is appropriate and where characterization of service under other than honorable conditions upon discharge is warranted.

Further, the Board found insufficient evidence to support a finding that you warranted a medical discharge. As explained earlier, you were diagnosed with a preexisting disability condition that was disqualifying for entry into the Marine Corps. Therefore, the Board determined the proper basis for your separation was erroneous entry vice physical disability.

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,

7/21/2025

