



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. 1977-21
Ref: Signature Date

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Dear █

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 22 April 2021. The names and votes of the members of the panel 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.

A review of your record shows that you entered active duty with the Marine Corps in August 1988. You were injured in a motor vehicle accident on 24 February 1989 that eventually resulted in a medical board referral to the Physical Evaluation Board (PEB) on 7 March 1989. On 14 September 1989, you were discharge from active duty with severance pay after being found unfit for continued naval service. Your DD Form 214 reflects your narrative reason for separation as "Physical Disability with Severance Pay" with a JFL1 separation code.

The Board carefully considered your arguments that your narrative reason for separation should be changed to "Pedestrian/MVA injuries with physical disability with severance pay." Additionally, you request an exception for back pay on future claims related to post-discharge injuries connected to your February 1989 accident. Unfortunately, the Board disagreed with your rationale for relief.

Regarding your request to change your narrative reason for separation on your DD Form 214 to include a reference to injuries suffered from your motor vehicle accident, the Board determined the preponderance of the evidence does not support the change. Marine Corps Order 1900.16

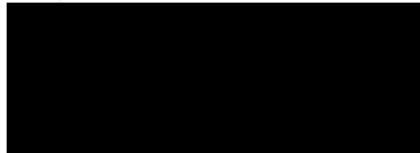
paragraph 8401 addresses the discharge of Marines for disability reasons and lists possible narrative reasons for separation under Table 1-2. Applying the facts of your case to the Marine Corps Order 1900.16, the Board concluded your assigned narrative reason for separation remains appropriate since you were discharged for a physical disability with severance pay. So regardless of your allegations of error involving your disability processing, the Marine Corps Order does not allow for a variance from your assigned narrative reason for separation to include the underlying basis for your physical disability discharge. Accordingly, the Board found no error or injustice with your assigned narrative reason for separation. If you require evidence to support future disability claims with the Department of Veterans Affairs (VA), the Board recommends you provide a copy of your medical board report along with your military medical records to support your claims.

Regarding your request for an exception to back pay related to post-discharge claims, the Board has no authority to grant relief. Military physical disability benefit determinations are limited to periods of active duty. Post-discharge service connected disability determinations and resulting compensation payments for disability conditions resulting from active duty injuries fall under the purview of the VA. As a result, the Board has no jurisdiction regarding post-discharge claim payments for service-connected disabilities. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your 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,

4/24/2021

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Deputy Director

Signed by:

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