



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: 6179-21
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.

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.

A three-member panel of the Board, sitting in executive session, considered your application on 20 December 2021. 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 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).

You enlisted and entered a period of active duty in the Marine Corps on 14 September 1989. In December 1989 you were diagnosed with asthma by history and deemed not fit for active duty. On 20 December 1989 you received an administrative remark in your service record that states you were counseled and understood that you were not being recommended for reenlistment and you had been assigned reenlistment code "RE-3P" by reason of failure to meet physical (medical) standards. Consequently, you were discharged as an Entry Level Separation on 30 January 1990 with an "uncharacterized" characterization of service. The narrative reason for separation on your DD Form 214 states "Physical disability existing prior to entry determined by MedBd (entry level separation)."

You contend your DD Form 214 states Other Than Honorable conditions when it should reflect Honorable under medical conditions. You state you were tricked into an administrative separation when you actually were injured and sent to medical rehabilitation platoon after an ankle injury. You further contend you were constantly verbally harassed by your senior drill instructor. You

state basic training is 12 weeks long and you served for over 16 weeks. You state you were detained until you healed and were told that your discharge would be treated the same as an Honorable discharge which was a lie. You further state you do not have a copy of your DD Form 214 and learned of the coding and discharge description in a county facility that had a veterans' program.

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 contentions noted above and desire to upgrade your discharge. Although your service record is incomplete, the Board relies on a presumption of regularity to support the official actions of public officers, and in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The narrative reason for separation noted on your DD Form 214 indicates that your asthma diagnosis existed prior to the time you began active duty and was determined by a Medical Evaluation Board (MEB). Furthermore, having been evaluated by a MEB, the Board presumed you were afforded your procedural rights in accordance with administrative separation processing prior to discharge. Based upon this review, the Board concluded that the potentially mitigating factors in your case were insufficient to warrant relief. Specifically, the Board found no probable material error or injustice in the processing of your administrative separation proceedings, and these determinations outweighed the mitigating factors. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief. Additionally, whether or not an individual is entitled to veterans' benefits is a matter under the cognizance of the Department of Veterans Affairs (VA), and you may contact the nearest office of the VA concerning your right to apply for benefits. If benefits have been denied, you may be able to appeal the denial under procedures established by the VA.

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,

1/14/2022

[REDACTED]
Executive Director
[REDACTED]