



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: 7223-21
Ref: Signature Date



Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 6 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 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).

On 29 November 2010, you enlisted in the U.S. Marine Corps and began a period of active duty. On 16 April 2014, a report of medical history documents you had lower back pain, ankle joint pain, index finger pain, and neck and shoulder pain. However, you were found fit to reenlist and did so on 5 September 2014. On 23 February 2017, a medical board report captures you were evaluated by your primary care health team for the onset of left knee pain in November 2015. On 29 August 2016, surgery was performed to debride the medial plica (tissue in your knee joint) and you commenced physical therapy. This report also documents all other conservative treatment was nearing the expiration of your first period of limited duty and you were unable to complete the three mile run portion of the physical readiness test in the maximum allotted time. It further captures your reported pain with prolonged walking as well as stiffness in your knee after sitting for more than 30 minutes. Lastly, the report documents your medical condition precluded you from continuing on active duty. You were then referred to a physical evaluation board (PEB). On 18 June 2017, an informal PEB findings report documents your hearing resulted in a 10%

disability rating and recommended you be separated with benefits. On 27 September 2017, you were separated with an honorable characterization of service and issued a RE-3P (Physical Disability) reentry code.

You contend: (1) you were medically separated due to a knee injury, (2) the injury that led to your separation is now under control, (3) after your separation you have recovered by completing physical therapy and treatment via the Department of Veterans Affairs, (4) you have more control over the pain and are now able to run, lift more than 100 pounds, climb a ladder, and stand for long periods of time, (5) during your service you did not receive any unfavorable remarks or nonjudicial punishments, and (6) you received two Good Conduct Medals. You state you would like another chance to reenter and continue your military service.

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. The Board noted you did not submit any supporting documentation, advocacy letters or post-service accomplishments for the Board to consider. The Board also noted the obstacles you have overcome in relation to your physical impediments for which the Board commends you. Based upon this review however, the Board concluded these factors were insufficient to warrant relief. Specifically, the Board determined that your reentry code is appropriate. 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 the 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,

12/25/2021

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Executive Director
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