



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. 819-22
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.

A three-member panel of the Board, sitting in executive session, considered your application on 17 February 2022. 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 enlisted in the Marine Corps and commenced active duty on 17 October 1989. On 20 October 1989, you were treated for left knee pain. On 7 December 1989, you were diagnosed with patellofemoral pain syndrome. On 23 July 1990, a medical board referred found that the condition was a disability that did not exist prior to entry and referred you to a Physical Evaluation Board (PEB). On 17 September 1990, the PEB found you unfit for continued naval service for left knee patellofemoral pain and concluded that it existed prior to entry and was not aggravated by your service. On 26 September 1990, you accepted the findings of the PEB resulting in your discharge from the Marine Corps on 16 November 1990.

You previously filed a petition with this Board in 2018 seeking similar relief. On 24 June 2019, this Board denied your petition on the basis that the PEB, not the medical board, is responsible for making the final adjudication in disability cases, and the PEB determined that your knee condition existed prior to your entry into the Marine Corps. In addition, this Board also concluded that the PEB decision was supported by the medical evidence. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your record.

In your current petition, you have provided additional information in the form of a written statement of a fellow Marine supporting your contention. In reviewing your current petition, the Board carefully reviewed all of your contentions and the material that you submitted in support of your petition, including the witness statement in support of your claim. After careful review, the Board determined that the material you provided in your current petition did not change its conclusion concerning the findings of the PEB. The Board reasoned, again, that the PEB, not the medical board, is responsible for making the final adjudication in disability cases, and the PEB determined that your knee condition existed prior to your entry into the Marine Corps. In addition, despite the witness statement you provided, this Board also concluded that the PEB decision was supported by the medical evidence in your record. Accordingly, the Board observed no error or injustice in your discharge and denied your petition.

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,

2/23/2022

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Deputy Director

Signed by: █