



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: 0856-22
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 30 March 2022. 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 to the Kurta Memo and 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 Navy and began a period of active duty on 7 September 1993, serving without incident. You filed a dependency application in May of 1995 for your dependent child born on 23 September 1994. Your commanding officer's letter documents that, after assuming responsibility for your then-infant child, you were unable to stand in-port duty on three occasions and had to be relieved from duty to care for your child. You also missed scheduled underway periods because you could not find suitable child care for extended periods of time, and your family members stated that they were unable to provide assistance. You submitted a voluntary request for a hardship discharge, which your commanding officer reviewed and approved. Although his letter documenting approval of your parenthood discharge request is dated 26 September 1995 and references separation authority under section 3620210 of the Military Personnel Manual (MILPERSMAN) with a separation code of "JDG," your Certificate of Release or Discharge from Active Duty (DD Form 214) reflects that you separated from active service on 15 August 1995 under the authority of MILPERSMAN 360200 with a separation code of "KDG," indicating a voluntary discharge for the reason of parenthood or custody of a minor child.

The Board carefully weighed all potentially relevant or mitigating factors, to include your contentions that your DD Form 214 erroneously identifies the separation authority and narrative reason for your discharge as MILPRSMAN 360200, parenthood or custody of a minor child, rather than MILPERSMAN 3620210 (more recently, MILPERSMAN 1910-110), hardship, and that you believe the separation authority and narrative reason for your separation has resulted in your ineligibility for unspecified veterans' benefits. First, the Board notes that the determination of entitlement to veterans' benefits is within the purview of the Department of Veterans Affairs and the Board has no authority to change a discharge for the sole purpose of enhancing access to benefits.

In light of your contentions, the Board observed that separation under MILPERSMAN 360200 for parenthood or custody of a minor child is appropriate when that condition has rendered you unable to perform prescribed duties, subject to repetitive absenteeism, or unavailable for worldwide assignment and when the specific criteria of hardship under that same authority (as opposed to the contended authority of MILPERSMAN 360210) have not been met. Although the Board considered the potential reasons for separation under the authority of MILPERSMAN 360210, as originally referenced by your commanding officer, the Board assessed that none of those reasons would have been more appropriate either based upon available records at the time of your discharge or, in retrospect, based upon your current contentions. Further, the Board notes that the available evidence does not support the conclusion that your circumstances at the time of your request for separation rose to the level of a hardship as defined by applicable regulations. As a result, the Board found that your discharge from active service under the authority of MILPERSMAN 360200 for the narrative reason of parenthood or custody of your minor child was consistent with the reasons outlined by your commanding officer at the time he approved your voluntary request discharge. Additionally, the Board found that the separation code of KDG accurately reflects the voluntary nature of your request for discharge, as opposed to involuntary separation either with or without administrative board action. Specifically, the Board determined that your separation under the authority of "MILPERSMAN 360200" for the narrative reason of "parenthood or custody of a minor child" is neither erroneous nor unjust and 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 is attached 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,

4/6/2022

