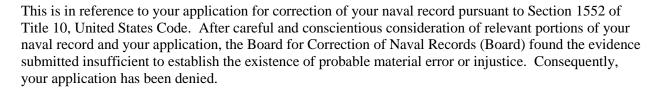


DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS 701 S. COURTHOUSE ROAD, SUITE 1001 ARLINGTON, VA 22204-2490

> Docket No. 2390-22 Ref: Signature Date



A three-member panel of the Board, sitting in executive session, considered your application on 11 January 2023. 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. In addition, the Board also considered the advisory opinion by Headquarters, U. S. Marine Corps memorandum 1900 MMSR-4 of 13 September 2022, which was previously provided to you. You were afforded an opportunity to submit a rebuttal, but did not do so.

You were discharged with an honorable character of service and were issued a Report of separation from Active Duty (DD Form 214 MC) for the period of 13 February 1976 to 11 October 1979 upon reenlistment—your separation code was KHC1.

On 7 August 1980 a medical board	d was conducted based on migraine headaches, EPTE, 34690, not
aggravated, and blackouts spells, I	EPTE, 78020, not aggravated. On 16 September 1980 Convening
Authority notified	indicating the following: "Member
returned to .	Recommended for separation IAW BUMEDINST 1910 2G, Paragraph
4b and MARCORSEPMAN 601I.	

On 5 September 1980 you signed a Statement of Patient, Concerning the Findings of a Medical Board. You were informed that it is the recommendation of the Medical Board of 7 August 1980 that you be discharged by reason of physical disability existing prior to entry on active duty and not aggravated by service. It was witnessed by cognizant authority.

On 5 September 1980 you signed a Certificate Relative to a Full and Fair Hearing Before a Physical Evaluation Board certifying that it has been fully explained to you that the Medical Board before which you appeared on 7 August 1980 has found you to be unfit for further naval service by reason of migraine Head aches, EPTE, 34690, blackout spells, EPTE, 78020, a physical disability which existed prior to

enlistment and which has not been aggravated by service. With full knowledge of the findings of the Medical Board and with knowledge of your rights in this matter, you hereby waived your rights to a hearing before a Physical Evaluation Board and request that you be administratively discharged from the naval service as soon as possible. You understood that you are not required to waive your rights and that you have signed this certificate voluntarily.

On 4 November 1980 the Chief, Bureau of Medicine and Surgery (First Endorsement on CMC letter MMSR-4/5 jqm of 27 October 1980) notified Commandant of the Marine Corps that based upon the available information, you were considered unfit for further Naval service by reason of a physical disability neither incurred in nor aggravated by active military service. It was therefore recommended that you be separated by reason of an EPTE physical disability since you waived your rights to a Physical Evaluation Board.

On 12 November 1980 the Commandant of the Marine Corps notified the Commanding Officer, that the recommendation of the medical board as concurred in/ modified by the Bureau of Medicine and Surgery is approved. Discharge this Marine by reason of physical disability authority MARCORSEPMAN, para.10104, and BUMED Instruction 1910.2G.

You were discharged with an honorable character of service and were issued a DD Form 214 for the period of 12 October 1979 to 2 December 1980 due to Physical Disability with Severance Pay—your separation code is listed as JFL1.

You requested that your financial records be reviewed to see if you are due separation pay. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that Block 26 (Separation Code) of your DD Form 214 lists JFL1 and block 28 (Narrative Reason for Separation) lists Physical disability w/Severance Pay. However, there is no indication in your record that you were entitled to severance pay. You were found unfit for further Naval service by reason of a physical disability neither incurred in nor aggravated by active military service, therefore, block 26 should list JFN1 and block 28 should list, "Physical Disability, without severance pay existed prior to service and not aggravated by service." In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

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.

