



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. 4009-22
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.

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 24 June 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 a period of active duty on 24 October 1988. On 22 February 1989, you were diagnosed with pes planus (flat feet), which was found to have existed prior to your entry into service, and not aggravated by service. A report of this finding was issued to you on 7 March 1989, and in response, you submitted a form that reflected your preference to be discharged, and that you did not desire to provide a written statement. On 27 March 1989, you were so discharged with an entry level separation based on physical disability existing prior to entry.

In your petition, you requested that your entry level separation be changed to a medical separation with benefits. In support of your petition you contend that your flat foot condition was aggravated in service and that you should have been medically discharged. You further contend that your Certificate of Release or Discharge from Active Duty (DD Form 214) does not reflect your service connected disability. You provide documentation from the Department of Veterans' Affairs (VA) demonstrating that you have a service connected disability rating of 50% for your feet.

The Board carefully considered your arguments, including your petition and its enclosures, as well as your service and medical records, and it disagreed with your rationale for relief. In denying your request for a medical discharge, the Board observed that there was no evidence that your foot condition was aggravated by your brief period of active duty service. Specifically, the Board found no evidence that your pes planus was aggravated beyond its natural progression at the time of your discharge. As a result, the Board found that you were properly discharged based on contemporaneous medical findings that you had a condition, pes planus that existed prior to your entry into service and was not aggravated by your service. Finally, to the extent you assert that the Department of Veterans Affairs (VA) later provided you service connected disability findings, the Board was not persuaded that these made your medical board findings erroneous. The Board noted that the VA ratings were issued approximately 30 years after your discharge and provided no discussion of service aggravation. Therefore, the Board did not find the VA ratings probative. 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 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,

7/6/2022



Executive Director

