



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

■
Docket No: 4240-22
Ref: Signature date



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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 17 June 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 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 Marine Corps and began a period of active service on 8 December 2003. On 12 December 2003, you underwent a medical evaluation, and you were determined physically fit to begin basic training with a positive medical waiver for a preexisting hip injury. On training day six you were transferred to the medical rehabilitation platoon for slipped femoral epiphysis on your right hip, evaluated for hip pain, and subsequently recommended for entry level separation. The record reflects your commanding officer incorrectly recommended your reason for separation due to "convenience of the government". Following an administrative review of your separation proceedings by the quality control liaison, your separation reason was corrected to reflect an entry level separation due to medical erroneous entry vice convenience of the government. On 7 January 2004, you were notified of the initiation of administrative separation proceedings by reason of erroneous enlistment, at which point, you waived your right to consult with counsel. On 8 January 2004, the discharge authority approved and directed your discharge

with an uncharacterized character of service by reason of erroneous entry. On 12 January 2004, you were so discharged.

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 desire to change your separation reason to convenience of the government, as recommended by your commanding officer. You contend that you fully disclosed your existing medical condition prior to your entry onto active duty, and you received a waiver to do so. The Board noted your commanding officer's recommendation was issued in error and later corrected in accordance with the proper regulations. Based on the severity of your injury and the rigors of recruit training, the Board determined you were erroneously issued a medical waiver for your preexisting injury. As a result, the Board found no error in your separation reason. Please note entry level separations due to erroneous entry do not reflect negatively upon an individual, but rather the service erred in during the accession process. In your case, you were issued a medical clearance for entry onto active duty by erroneous assumption that your prior injury met waiverable standards for procurement.

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,

7/13/2022

█
█
█