



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

█  
Docket No. 5832-22  
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 23 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.

A review of your record shows that you enlisted in the Marine Corps and commenced active duty on 25 June 1976. Your Entrance Physical Exam documented the presence of a surgical scar on the right knee and that you injured your right knee in 1974 while playing high school football. Despite your history of knee issues, you were found qualified for enlistment and allowed to enter active duty.

On 9 August 1976, while playing softball, you were struck in the knee and started having pain in your right knee. On 21 October 1976, a Medical Evaluation Board (MEB) convened to review your knee pain. The MEB diagnosed you with Status Post Medial Meniscectomy, Right Knee, Existed Prior to Entry, not aggravated by service and recommended your separation. Based on the MEB determination that your knee condition existed prior to entry, you were recommended for an erroneous enlistment separation.

On 29 October 1976, you were discharged from the Marine Corps in the rank of E-2 with an Honorable characterization of service. The narrative reason for separation was Erroneous Enlistment under Marine Corps Separation Manual (MARCORSEPMAN) paragraph 6012.1e.

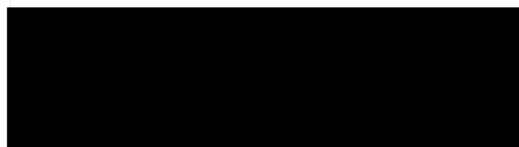
In your petition, you request correction to your DD Form 214, specifically that your narrative separation reason state Disability vice Erroneous Enlistment. You argue that your separation reason was falsified on your DD Form 214 as you were injured during training and you were found no longer fit for Naval service due to that injury.

The Board carefully reviewed your petition along with the material that you provided in support of your petition and disagreed with your rationale for relief. The Board noted that the MEB found that you had a preexisting medical condition and you did not offer a rebuttal. This factor, combined with the medical evidence in your enlistment physical, convinced the Board your knee condition preexisted your entry into the Marine Corps and was not aggravated by your service. The Board determined no aggravating exists in your case since there was no evidence that your knee condition worsened beyond the normal progression of your original injury. Finally, the Board noted that your re-enlistment code of RE-3P indicated that you were recommended for reenlistment in the Marine Corps pending a waiver. The Board determined the assignment of a RE-3P code does not equate to a disability discharge, since it can also be issued in cases such as yours in which a disability condition preexisted entry into the military. Therefore, the Board determined your narrative reason for separation is correct. 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,

2/15/2023



Executive Director

Signed by:

