



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: 6374-22
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 30 September 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).

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You enlisted in the Marine Corps and began a period of active service on 28 May 1985. On 13 September 1985, you were diagnosed with mild to moderate pseudo folliculitis barbae (PFB). You were placed on eight weeks of PFB treatment. You were counseled, on 15 Jan 1986, that your transfer from ceremonial drill school was due to your PFB. On 28 Feb 1986, you were placed on a second iteration of PFB treatment due to your physical condition, which worsened to a diagnosis of severe PFB. On 24 June 1986, you received non-judicial punishment (NJP) for willfully disobeying a lawful order and unauthorized absence (UA). Subsequently, a medical determination was made that your PFB could no longer be treated successfully and you would have to maintain a beard for an indefinite period of time to improve your condition. As a result,

your separation proceedings were initiated, at which point, you waived your right to consult with counsel. Your commanding officer recommended your separation with an Honorable character of service. The separation authority approved and directed your separation with an Honorable character of service by reason of convenience of the government due to a physical condition, not a disability. On 26 February 1987, 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 reason of separation and to received retroactive pay at the grade of E-3 for the remainder of your enlistment contract. You contend you were a functional Marine, and your condition did not prevent you from performing your duties as a Marine. You believe you should be reimbursed as an E-3 because you were unable to complete your service obligation due to your involuntary separation.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. The Board determined your discharge processing and assigned reason for separation remain appropriate based upon the nature of your medical condition at the time. Although you were able to perform your duties as a Marine, your PFB condition rendered you unable to conform to Marine Corps policy to maintain personal appearance standards. As explained in your medical evaluation off 16 December 1986, there was no significant change to your condition expected and you would have been required to maintain a beard in violation of Marine Corps appearance standards. Therefore, the Board determined you were properly discharged at the convenience of the government for a condition, not a disability. Based on this finding, the Board found no basis to grant you a request for constructive service credit or retroactive pay. 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,

10/18/2022

