



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. 6746-22
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 2 March 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 Reserve and completed a tour of active duty from 24 October 1989 to 24 April 1990. You were ordered to Extended Active Duty on 24 November 1990. On 10 December 1990, you submitted a request for discharge by reason of hardship. On 22 January 1991, Commanding General, █ Marine Division approved your request and directed that you be administratively separation by reason of convenience of the government due to personal hardship. You were discharged with an Honorable characterization of service on 11 February 1991.

Post-discharge, you applied for disability benefits from the Department of Veterans Affairs (VA) and were found to have a service-connected disability of 20%.

In your petition, you request your discharge be updated from an Honorable Hardship to a Disability Discharge. You allege because the VA found that you had a service-connected disability you rate a disability discharge from the Marine Corps.

The Board carefully reviewed your petition and the material that you provided in support of your petition and disagreed with your rationale for relief. In reaching its decision, the Board observed that, in order to qualify for military disability benefits through the Disability Evaluation System with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health of the member or to the welfare or safety of other members; the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting.

In reviewing your record, the Board observed no evidence that you had any unfitting conditions while on active duty. The Board further noted you requested discharge from the service due to personal hardship not an injury or disability; consequently, your VA service-connected disability did not cause your discharge from the Marine Corps. The Board noted that the mere presence of a medical condition or specific correspondence of any manifestations thereof to an entry indicating a disability rating contained in the VA Schedule for Rating Disabilities is insufficient to warrant either a finding of unfitness for continued naval service or a specific disability rating by the PEB in the absence of demonstrated duty performance impairment of sufficient magnitude as to render a Service member unfit for continued naval service. By contrast, eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated. Based on these factors, the Board determined that you were appropriately discharge based on your request to not continue in the Marine Corps, and insufficient evidence exists to grant you a disability discharge. 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,

3/13/2023

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Executive Director

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