



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

██████████
Docket No: 7297-22
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 you did not file your application 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 7 October 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 to the Kurta Memo and 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 the understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on evidence of record.

You enlisted in the Marine Corps under a reserve option contract and began a period of initial active duty on 26 July 2004. Within your first 60 days of service, you began receiving medical care for shin splints and were ultimately diagnosed with a stress fracture – a condition which was determined unlikely to change in a training environment and, thus, would prevent successful training. On 17 November 2004, you were notified of administrative separation for convenience of the government due to your medical condition and, due to your entry-level status of less than 180 days of active duty service, discharged on 29 November 2004 with an “Uncharacterized” character of service.

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 for an Honorable characterization of service and contentions that the Department of Veteran Affairs granted your claim for service-connected disability due to health issues which were sustained in or exacerbated by your military service, but that you desire to upgrade your discharge because the state of ██████████ will not grant a disabled veterans property tax exemption, regardless of the VA disability determination, due to your Certificate of Release or Discharge from Active Duty (DD Form 214) not reflecting an “Honorable” discharge.

Based upon this review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Marine Corps policy specifies an uncharacterized description shall be used when a separation is initiated while a Marine is in an entry-level status of 180 days or less, unless “characterization of service as Honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of military duty and is approved on a case-by-case basis by the Secretary of the Navy.” The Board found that your period of service, which totaled 4 months and 4 days, fell squarely within the limits of entry-level status and concluded that an uncharacterized separation was consistent with existing policy and regulations. In making this finding, the Board found no unusual circumstances of personal conduct or performance that merited an exception to policy. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Regarding your desire to obtain veteran benefits through your state of legal residence, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans’ benefits. However, and as evidenced by the Department of Veterans Affairs’ determination of your entitlement to disability benefits, the Board noted that the regulatory guidance for your characterization of service established in the Marine Corps Separation Manual, paragraph 1004.5(a), expressly directs that “With respect to administrative matters not pertaining to Service – i.e., Department of Veteran Affairs (VA) benefits, civilian employment, etc. – *an uncharacterized separation shall be considered as the equivalent of an honorable or general (under honorable conditions) characterization.*” Hopefully, this information may provide some clarity to State of ██████████ personnel responsible for such administrative matters who may be unfamiliar with the Service’s regulation.

You are entitled to have the Board reconsider its decision upon the 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 is attached 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,

10/25/2022

[REDACTED]

Executive Director

[REDACTED]