



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

█
Docket No: 7386-22
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 28 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 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 Navy and began a period of active service on 19 August 2015. Prior to your enlistment you received a waiver for physical standards due to your condition of pes planus. On 14 October 2015, you underwent a medical evaluation for chest pain. The evaluating physician noted you experienced picking type chest pain for "several years." You were diagnosed with atypical chest pain on 10 November 2015, and recommended for entry level separation due to your diagnosis of atypical chest pain. As a result of the foregoing, on 20 November 2015, 62 days following your entry onto active duty, entry level administrative separation proceedings were initiated as a result of your defective enlistment and induction fraudulent entry into naval service through deliberate material misrepresentation, omission, or concealment of a condition or circumstance that existed prior to entry. On the same day, you waived your right to consult with counsel.

On 25 November 2015, you submitted a request to amend your medical record from 14 October 2015 to read “several weeks” vice “several years.” That same day, the separation authority approved and directed your separation with an uncharacterized character of service by reason of fraudulent entry into military service with a reentry code of RE-8. On 3 December 2015, you were discharged and your request for an amendment to your medical record was denied.

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 for separation and reentry code. The Board also considered your contentions that you contested the accuracy of your medical record and your separation was initiated based on the inaccuracy of the physician’s description of the length of time in which you were experiencing symptoms of chest pain. In support of your application, you provided evidence that your medical record was amended on 17 June 2021 as previously requested.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. While the Board considered the amendment evidence you provided, they determined that it was insufficient evidence to prove that you did not suffer from the medical condition that initiated your separation proceedings. Further, the Board was not persuaded, based solely on the amendment letter, that you were not aware of your condition at the time of your enlistment. The Board noted that additional medical evidence, such as pre-service medical documents that indicate whether you suffered from the condition prior to entering the Navy, would assist the Board in determining whether an error or injustice exists with your discharge. Finally, the Board also noted that your reentry code does not prevent you from joining the reserve component. Recruiting commands may waive said code to allow you to join the reserve component. As a result, the Board found no error or injustice with your assigned narrative reason for separation or reentry code. 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,

11/18/2022

█

Executive Director

Signed by: █