



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. 7390-22
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 9 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.

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.

A review of your record shows that you enlisted in the Marine Corps and commenced active duty on 16 November 1987. Two days later, on 18 November 1987 you were reported absent without leave. You were apprehended by the █ police on 3 July 1991 and returned to Marine Corps Recruit Depot (MCRD), █.

On 12 September 1991, you underwent a physical exam and were found physically qualified for separation from active duty. The Board noted that you signed on that date a notification stating "no defects have been noted which would disqualify you from performance of your duties or entitle you to disability benefits from the naval service." On 13 September 1991, you were discharged from the Marine Corps in the grade of E-1 with an uncharacterized characterization of service. The narrative reason for separation was entry-level performance and conduct. You received a reentry code of RE-4.

In your petition, you request an upgrade discharge from entry-level separation. Specifically you claim that you initially injured your back while you were in an unauthorized absence (UA) status, but that you re-injured your back while you were working at MCRD, █ in August 1991. You included a

medical evaluation from 2013, which included a review of medical records from 1990, and medical notes from 2015 as well as letters to your wife in 1991, to support your claim.

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 noted that a medical note of 11 April 1990 stated that you had an accident in a three-wheeler two years prior, injuring your right foot at the time. In addition, there was an operative report of 17 May 1990, while you were UA, stating that you had a right L5-S1 Discectomy. Moreover, the Board noted that while the letters to your wife stated that you had back pain, there were no medical records in your file that you complained of or were treated for back pain in service.

Finally, the Board noted you served for two days and went UA¹ until you were apprehended by the [REDACTED] police and returned to [REDACTED] on 3 July 1991 and processed for separation on 13 September 1991. As a result of serving in the military for less than 180 days, you were given an uncharacterized entry level separation per Marine Corps Separation Manual (MARCORSEPMAN) 6205. Therefore, the Board determined you were appropriately processed for administrative discharge with an Entry Level Separation² and your Certificate of Release or Discharge from Active Duty (DD Form 214) is administratively correct.

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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

2/3/2023

[REDACTED]

Deputy Director

[REDACTED]

¹ Time in a UA status does not count towards creditable days in service.

² Entry level separations, or uncharacterized discharge, are given to members who separate prior to completing 180 days of military service, or when discharge action was initiated prior to 180 days of service. This type of discharge does not attempt to characterize service as good or bad.