



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. 9101-22
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 9 May 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 and commenced a period of active duty on 14 November 2005. On 15 January 2008, you were formally counseled that you were out of weight standards and thus not recommended for promotion. On 4 April 2008, you were formally counseled concerning your failure to obey an order or regulation concerning uniform deficiencies. On 11 June 2008, you were counseled that you were out of weight standards and thus not recommended for promotion. On 10 September 2009, you received nonjudicial punishment for violation of the Uniform Code of Military Justice, Article 134 for adultery. On the same day you were issued a formal written warning. On 24 September 2009, you were formally counseled that you were not recommended for promotion. On 19 November 2009, you were formally counseled that you were not recommended for promotion. On 1 March 2010, you were notified of the initiation of administrative separation processing and your rights in connection therewith. On 1 March 2010, your commanding officer transmitted his recommendation that you be discharged with an other than honorable characterization of service. On 18 March 2010, you received nonjudicial punishment for assaulting your wife in August 2009 as evidenced by a civilian arrest for same. On 2 April 2010, the next level of your chain of command recommended that you be discharged with an other than honorable characterization of service. On 16 April 2010, the separation authority directed you be discharged with an other than honorable characterization of service. You were so discharged on 3 May 2010.

In your petition, you request that the Board (1) “change [your] MOS school,” (2) change your discharge, and (3) reevaluation of the medical board findings for concurrent left knee pain. In support of your requests you contend that you earned a good conduct medal prior to taking medications and getting in trouble. You also state that when you got out of the Marine Corps, your local Veterans Affairs representative told you that you there was nothing available to you but you later found that you had options.

In reviewing your record, the Board concluded the preponderance of the evidence does not support a finding that you met any of the criteria for unfitness at the time of your discharge. With respect to your request to change your MOS school, the Board observed that your Certificate of Release or Discharge from Active Duty (DD Form 214) reflects your MOS as 5811, Military Police, and that you served in that role for three years and six months. The Board considered that your request provided no factual or documentary support and it also provided no context as to why you believe you would be entitled to have your MOS school changed. You also did not provide any basis for why you should be identified as having worked in another MOS.

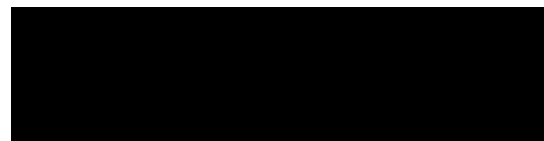
With respect to your request for the Board to reevaluate medical board findings, the Board observed that there was no evidence available to it concerning any such medical board, and you did not provide any. In this regard, please note that this Board is not an investigative body. Your assertion with respect to a medical board may be reevaluated should you provide such material.

In light of the fact that you have been discharged for fewer than fifteen years, the Board recommended that you file an application for review of your discharge with the Naval Discharge Review Board (NDRB). In filing such an application, you will be provided an opportunity to develop a record of your post-service clemency matters, and other matters at your discretion. Should you file with the NDRB, you would be eligible for two reviews. The first review is a Document Record Review (DR). Thereafter is a Personal Appearance Hearing (PAH) review. However, if you choose to have a PAH first, you will no longer be eligible for a second review by either DR or PAH. If your application for a characterization upgrade is denied by the NDRB, you may file a petition with this Board. You may obtain additional information on the NDRB at www.secnav.navy.mil/mra/CORB/pages/ndrb/ha.aspx

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,

5/17/2023



Deputy Director

Signed by: 