



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. 2643-23
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 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 review your application. A three-member panel of the Board, sitting in executive session, considered your application on 2 June 2023. 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 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 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 United States Marine Corps and commenced a period of active duty on 28 March 1986. On 23 June 1986, the Recruit Medical Board Report documents that you were diagnosed with "Lower Back Pain" and your case was referred to a Physical Evaluation Board (PEB) for review. On 28 July 1986, the Disability Board found you "unfit to remain on active duty because of physical disability" and you were ordered to proceed home pending the final disposition of the physical evaluation board proceedings. On 11 August 1986, the PEB directed your permanent separation from service with severance pay (10% disabled) but without further disability benefit. On 1 September 1986, you were discharged with an Entry Level Separation (less than 180 days of service) by reason of "Physical Disability w/ Severance Pay," with a "JFL2" separation code, and a "RE-3P" reentry code.

The Board carefully considered your contention that the "JFL2" reentry code was issued in error, as "no injury or physical ailment existed prior to entry, nor has been noted in any documentation or physical examination." However, after review of the applicable regulation, the Board did not find this separation code to be in error. Per MARCORSEPMAN Par. 8401, the separation code

“JFL2” indicates “Physical disability w/entl to severance pay, severance pay not paid, less than 6 mos acdu.” This code does not indicate your disability condition existed prior to entry into service (EPTE). The assigned reentry code “RE-3P” is also accurate, indicating “Failure to meet physical (medical) standards.” In reviewing your PEB findings, the Board noted that you were assigned a 10% disability rating indicating that your unfitting disability condition was determined not to be EPTE, since an EPTE determination would have precluded the assignment of a disability rating. Finally, the Board found that your Entry Level Separation is accurate, as you served less than 180 days on active duty. 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 supporting evidence, as described above, which will require you to complete and submit a new DD Form 149. Supporting evidence (i.e. 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,

