



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. 2989-23
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.

A three-member panel of the Board, sitting in executive session, considered your application on 8 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.

A review of your record shows that you entered active duty service on 26 July 1995. On 24 August 1995, Commanding Officer (CO), Recruit Training Command, notified you that you were being processed for defective enlistment and induction into the naval service due to erroneous enlistment as evidenced by your diagnosis of chronic lower back pain. The CO noted that you disclosed pre-service medical history to Branch Medical Clinic staff. You were separated on 29 August 1995, with an uncharacterized characterization of service. Your Certificate of Release or Discharge from Active Duty (DD Form 214) states the narrative reason for separation was failed medical/procurement standards per Military Personnel Manual (MILPERSMAN) 3620280.

In your petition, you contend that although you had a car accident prior to entering the service, you were well upon entry, and that you injured your shoulder and back while in training. You included a radiology record from a civilian medical center in █ dated 27 January 1995, documenting a normal cervical spine and normal lumbar spine, to support your contention you were medically sound upon entry. In addition, you argue that you never told medical personnel that you had to quit a job due to back pain. You further contend that other Sailors bullied and threatened you at the time of the injury and that as a result of your physical injuries and the harassment you received, you became depressed. You provided a Department of

Veterans Affairs (VA) ratings decision letter dated 11 April 2022 stating you were found to be service-connected for unspecified depressive disorder and insomnia with a rating of 70%. You argue that you were injured physically and mentally while in service and warrant a medical discharge.

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 the Naval Military Personnel Manual (MILPERSMAN) Article 3630200, authorizes separation of a member during the first 180 days of service when the member has been found unqualified for further service and Article 3610300 specifies that the separation will be uncharacterized and described as Entry-Level Separation. Article 3610300 further clarifies that for a separation in the first 180 days of active duty to be deemed as honorable there would have to be evidence of unusual circumstances involving personal conduct and performance of naval duty and the Secretary of the Navy would have to approve the characterization on a case-by-case basis. The Board also noted that you served on active duty for a total of one month and four days and there was no evidence in your record demonstrating any exceptional circumstance to warrant an honorable discharge.

Regarding your request for a disability discharge, as previously discussed, the Board did not find your argument that you suffered from a disability at the time of your discharge persuasive since it was based on the VA decision to issue you service connected disability ratings. The VA issues disability ratings without regard to fitness for continued naval service; a finding that is required under Navy disability regulations in order to qualify for a disability rating from the Navy. In addition, the fact you were determined to possess disability conditions 25 years after your discharge was not convincing evidence to the Board since too many potential intervening post-discharge factors could have contributed to your conditions. In sum, the Board did not observe any error or injustice in your naval records. Accordingly, given the totality of the circumstances, the Board determined that your administrative discharge with an Entry-Level Separation 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.

Sincerely,

6/16/2023

