



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

█  
Docket No. 4461-23  
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 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 7 September 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 Navy and commenced active duty on 17 December 1984. Two weeks after your entrance into the Navy, on 31 December 1984, you were evaluated by the Naval Hospital Branch Clinic at █, due to concerns related to your knee. The medical records indicate that you reported a significant pre-service medical history, including that you injured your left knee in a car accident prior to entry into service. As a result, on 19 January 1985, you were notified of the initiation of administrative separation processing your rights in connection therewith. On 21 January 1985, a medical board issued its report, recommending that you be discharged due to enlisting in error. On 31 January 1985, your commanding officer transmitted your separation package to Navy Personnel Command explaining that you failed to meet minimum physical standards prior to entry. On 6 February 1985, you signed a counseling statement (Page 13 entry) which explained that you were being processed for erroneous entry, and you were subsequently discharged with an entry level separation due to erroneous enlistment – enlisted in error.

In your petition, you have requested to change your narrative reason for separation to medical and your characterization of service to Honorable. In support of your petition, you contend that

you were injured by another Sailor while you were in service and injured your knees and shoulders.

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 reviewing your record, the Board noted that contemporaneous medical findings established that you were diagnosed with a condition that existed prior to your entry, which was evaluated and confirmed by a medical board. Further, the Board observed that you did not provide any evidence to the contrary. As a result, the Board concluded the presumption of regularity applies in your case and supports your erroneous enlistment separation.

Finally, with respect to your request to change your discharge characterization to Honorable, the Board determined that there was no error or injustice with respect to your uncharacterized entry level separation. In reaching its decision, the Board noted that you were notified of your administrative separation within approximately one month of your entry into service, and according to the applicable provision of the Navy's military personnel manual (MILPERSMAN), at the time of your service, an entry level separation was the appropriate characterization of service within a Sailor's first 180 days of service. While the Board noted exceptions to the policy exist in cases involving misconduct or extraordinary performance, they determined neither exception applied in your case. 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,

9/19/2023

