



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

█  
Docket No. 5835-23  
Ref: Signature Date



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 for Correction of Naval Records, sitting in executive session, considered your application on 1 December 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 the 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).

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.

You enlisted in the U.S. Marine Corps Reserve (USMCR) and began a period of active duty service on 15 October 1971. Following completion of your initial recruit training, you were honorably discharged at the expiration of your active obligated service and assigned to a USMCR unit in █.

You maintained your USMCR affiliation and you successfully completed your required weekend drills and your two-week annual training requirements during each anniversary year to earn satisfactory years towards your USMCR retirement. The USMCR Career Retirement Credit

Record in your OMPF indicates that, with the exception of a USMCR mobilization in 1990-91 for approximately six months, you were exclusively in a USMCR “weekend drilling” status over the course of your entire military career, and not formally recalled back to active duty service for an extended period of time. On or about 30 November 1998, you retired from the USMCR at the rank/grade of Master Gunnery Sergeant (E-9).

Prior to your USMCR retirement, you underwent a retirement medical examination on 25 September 1998. As part of the examination, you completed a DD Form 2697 “Report of Medical Assessment” (RMA) dated 11 September 1998, and a self-reported Standard Form 93 “Report of Medical History” (RMH). On neither the RMA nor the RMH did you personally note that you were currently suffering or diagnosed with any cancer or lymphoma. On your RMA, you expressly stated that since your last physical examination (7 March 1993) that your overall health was the same, and that you did not have any conditions which would currently limit your ability to work in your primary military specialty or require geographic or assignment limitations.

At your retirement medical examination, on 25 September 1998, the Navy Medical Officer (NMO) did not note any cancer or lymphoma diagnoses. However, less than one (1) month prior to your USMCR retirement, on 6 November 1998, the same NMO placed a handwritten “addendum” on both the RMA and the examination form (Standard Form 98), noting that you were diagnosed with B cell lymphoma, seeing a civilian oncologist, and undergoing chemotherapy. The NMO specifically documented that the cancer/lymphoma “was not diagnosed while on active duty.” (emphasis added).

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo and equitable considerations. These included, but were not limited to, your desire to remove the aforementioned handwritten addendum from your record and contentions that: (a) if you were being evaluated for your retirement physical examination at a Physical Exam Center onboard ██████████ you cannot understand how you could not have been on active duty during this process, and (b) you feel your RAM is incorrect and does not reflect the correct facts about your health at such time. For purposes of clemency and equity consideration, the Board considered the entirety of the evidence you provided in support of your application.

After thorough review, the Board concluded the evidence of record was insufficient to warrant relief. The Board determined that your Marine Corps service and medical records, your RMA dated 11 September 1998, and all other medical documentation maintained by the Department of the Navy (DoN) contained no known errors.

The Board determined your petition is based on a simple misunderstanding of the difference between active duty Marine Corps and USMCR personnel. Following your initial six-month active duty service in 1971-1972, at all relevant points in time, you were in a drilling USMCR status and not on active duty per se.<sup>1</sup> During your USMCR career, you performed your weekend

---

<sup>1</sup> The Board noted that you did mobilize for approximately 180 days during Desert Shield/Desert Storm in 1990-1991, but aside from such service, you performed only weekend USMCR drills and your “two-week” annual training periods over the course of your entire USMCR career.

drills and two-week annual training to earn satisfactory years towards a USMCR retirement, not an active duty retirement. Your status as a USMCR drilling Reserve Component member never changed. Upon your retirement, you qualified for and began receiving a USMCR pension/annuity, not a traditional active duty pension.

Over the course of their careers, Reserve Component members experience and develop medical conditions as they age. Any such medical conditions experienced while in a USMCR status do not automatically translate to an active duty diagnosis. The fact that during a retirement medical exam occurring at a Marine Corps Physical Exam Center you provided the NMO with information regarding your lymphoma diagnosis does not in any way equate to an active duty diagnosis. The Board concluded that the physical location of the retirement examination and notation on your medical record is of no consequence in your case. It is the status of the service member at the time the disability condition is incurred that matters, and there is no evidence that your lymphoma condition was incurred while on active duty.

It was clear to the Board that a civilian practitioner diagnosed you with B cell lymphoma, and you began a course of chemotherapy treatments at civilian medical facilities. At all relevant points in time of such diagnosis and treatment you were in a USMCR status, and not performing traditional active duty service. Moreover, the Board noted that a review of your available USMCR medical documentation and relevant military medical history dating all the way back to March of 1993 did not indicate any pre-cancerous, cancer, or lymphoma diagnoses. Thus, the Board determined that your lymphoma condition and diagnosis originated very late during your USMCR career and not while you were on active duty. In making this finding, the Board also noted the lack of a line of duty determination for your lymphoma condition in your record.

Therefore, even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting you the relief you requested or granting relief as a matter of clemency or equity. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

The Board thanks you for your selfless and Honorable service to this country.

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,

12/6/2023

█  
Executive Director

Signed by: █