



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. 8540-23

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 8 November 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).

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) 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 Marine Corps Reserves and commenced a period of active duty on 15 January 2003. You underwent medical evaluations from the period beginning on 3 February 2003 to 21 March 2003 for lower extremity pain. Ultimately, you were diagnosed with bilateral chronic knee pain and transferred to a medical rehabilitation platoon. On 24 March 2003, your Commanding Officer recommended your discharge from the Marine Corps Reserves. On 27 March 2003, you were notified of the initiation of administrative separation proceedings by reason of convenience of the government due to a physical condition not considered disability; at which point, you waived your procedural rights. On the same day, you were counseled regarding your assignment of a reentry code of RE-3P due to your diagnosis of chronic bilateral knee pain. The Separation Authority approved and directed your discharge. Subsequently, you were

discharged on 1 April 2003, with an uncharacterized character of service by reason of a condition not a disability, and you issued a separation code of JFV1, which corresponds to a separation by reason of condition not a disability.

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. These included, but were not limited to your desire to change your separation code to allow you eligibility for veterans' benefits. For purposes of clemency and equity consideration, the Board noted you provided your Department of Veterans Affairs (VA) rating document.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your assigned separation code remains appropriate based on your narrative reason for separation. The Board noted that VA eligibility determinations for health care, disability compensation, and other VA-administered benefits are for internal VA purposes only. Such VA eligibility determinations, disability ratings, and/or discharge classifications are not binding on the Department of the Navy and have no bearing on previous active duty service discharge characterizations or separation codes. Further, absent a material error or injustice, the Board declined to summarily change a separation code solely for the purpose of facilitating veterans' benefits, or enhancing educational or employment opportunities. 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.

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,

11/24/2023

