



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

[REDACTED]  
Docket No. 5235-17

NOV 29 2017

[REDACTED]  
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

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 2 November 2017. 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 entered active duty with the Marine Corps on 21 July 1997. You were transferred to the Medical Remedial Platoon on 20 September 1997 after you were diagnosed with tendonitis of your knee. Your condition improved and you were medically cleared for running on 24 November 1997 but were later recommended for an entry level separation after your condition returned. You were notified of administrative separation processing for your chronic knee condition on 8 December 1997 and acknowledged your rights. On 30 December 1997, you were discharged with an uncharacterized entry level separation due to entry level performance and conduct. You provided medical evidence that shows you suffer from chronic knee pain in 2001 and 2008.

The Board carefully considered your arguments that you deserve a disability discharge. Unfortunately, the Board disagreed with your rationale for relief. The Board relied upon the medical evidence that showed your condition was temporary in nature and related to your Marine Corps training requirements. The fact your condition improved between 20 September 1997 and 24 November 1997 was persuasive evidence because it showed the temporary nature of your condition when properly treated and not subject to physical stressors associated with Marine

Corps basic training. The Board concluded that your condition would have similarly improved had you been allowed to continue to rehabilitate your knee. Therefore, they also concluded that the Marine Corps' decision to release you from active duty for failing to complete your basic training did not qualify you for referral to the Disability Evaluation System since your condition was not a qualifying disability. The fact you provided evidence that you suffer from knee pain years after your release from active duty did not convince the Board your condition was permanent or that it was related to your brief period of active duty training. The length of time between your discharge and the evidence you provided was too distant in time for the Board to be able to form a credible nexus between your Marine Corps condition and the knee condition alleged in the 2001 [REDACTED] Department of Corrections Presentence Investigation. Further, the Board was influenced by the lack of any reference in your military record that you suffered ligament or tendon damage in your knee. This evidence was lacking despite the extensive medical treatment you received while in the Marine Corps on your knee. Accordingly, the Board was unable to find an error or injustice warranting a correction to your record and denied your application.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence not previously 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,

[REDACTED]

Executive Director