



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. 9815-23
Ref: Signature Date

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Dear Petitioner:

This is in reference to your reconsideration request 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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 18 July 2024, has carefully examined your current request. 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, applicable statutes, regulations, and policies.

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 previously applied to this Board for a discharge upgrade and were denied on 2 July 2019 and 17 February 2021. The facts of your case remain substantially unchanged.

For this petition, you contend the Navy erred in diagnosing you with Peptic Ulcer Disease without properly confirming the diagnosis and improperly discharged you after failing to refer you to a physical evaluation board. You also argue that your characterization of service is incorrect because you enlisted in the Naval Reserve in December 1987 making your total service time 197 days; thereby warranting an Honorable characterization of service. As new evidence you included a letter from a physician, dated 14 December 1987, stating that you had completely

recovered from your abdominal injuries, and a timeline. The Board noted that the 16-23 June 1988 medical records were already in your file.

The Board carefully reviewed your reconsideration request and the material that you provided in support of your petition and disagreed with your rationale for relief. With respect to your contention that your time of service in the Navy is incorrect because you served in the Delayed Entry Program (DEP), the Board determined that serving in the DEP does not count as active duty service and your uncharacterized entry-level separation remains appropriate based on your 19 days of active duty service.

Second, the Board found there was sufficient evidence in the record that you had a medical condition prior to enlistment that you did not reveal during your medical entrance processing and were properly processed for erroneous enlistment based on the medical board determination that you did not meet minimum enlistment standards. Based on the determination that your condition existed prior to entry, and you failed to properly disclose your medical history, the Board found that the Navy acted appropriately in processing your for administrative separation upon discovering your condition existed prior to entry. While the Board considered the evidence you provided, they found it unconvincing based on the fact your condition was disqualifying for enlistment. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

The Board noted your DD Form 214 erroneously states “medical (various)” for your narrative reason for separation instead of erroneous enlistment. However, the Board determined no change was warranted based on existing Board policy not to recommend record corrections that may have a negative effect on Petitioners. Should you choose to have this error corrected, you may reapply to this Board for 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

8/2/2024

