



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

█
Docket No. 10919-23
Ref: Signature Date



Dear █

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.

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 18 January 2024. 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.

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.

A review of your record shows that you entered active duty in the Marine Corps on 1 December 2008. On 9 December 2008, you went to sick call for an upper respiratory infection. Eventually, you were dropped from recruit training on 23 December 2008 due to pneumonia and right triceps strain. You were cleared to return to full duty on 9 January 2009. After failing subsequent PFTs, on 2 March 2009, you were medically cleared for entry level separation for failure to fulfill the minimum requirements for physical fitness with respect to pull-ups. The medical provider noted you had recovered from the triceps strain and there was no medical condition to report. On 5 March 2009, you were notified of discharge from the Marine Corps with an uncharacterized characterization of service under paragraph 6205 of the Marine Corps

Separations Manual (MARCORSEPMAN) by reason of entry level performance and conduct. You signed paperwork stating you understood your separation reason and waived your right to counsel and right to make a rebuttal statement. You were subsequently discharged, on 16 March 2009, and received an uncharacterized entry-level separation characterization of service. Your Certificate of Release or Discharge from Active Duty (DD-214) states entry level performance and conduct as the narrative reason for separation.

You previously requested the Board place you on the disability retirement list in 2019. The Board denied this request stating that there was insufficient evidence your Department of Veterans Affairs (VA) rated disability conditions did not make you unfit at the time of discharge.

In your current petition, you request an Honorable characterization of service and a change to your narrative reason for separation, reentry code, and separation code to reflect a medical discharge vice an Entry-Level Separation. You argue that during boot camp you were returned to duty prematurely after incurring pneumonia and triceps strain, and as a result you were not able to pass the PFT. You further argue that you injured your leg and groin which deteriorated your performance and that you were informed not to seek medical treatment for these conditions. In addition, you claim that without the proper medical care you were not able to pass the fitness test due to your decreased respiratory function and chronic pain conditions. You included an evaluation, dated 24 November 2023, from a medical provider who reviewed your records and opined that you were not fit to perform your duties in 2009 due to your medical conditions.

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 reaching its decision, the Board noted you served three months and 16 days on active duty. Thus, in accordance with the MARCORSEPMAN, at the time of your discharge you were in an entry-level status, having served in the military for less than 180 days. The MARCORSEPMAN dictates that all personnel administratively separated from recruit training will be processed under entry-level status except in limited cases involving misconduct or extraordinary performance. The Board determined neither exception applied in your case and concluded your uncharacterized entry-level separation remains appropriate.

With respect to your request for a disability discharge, the Board observed that in order to qualify for military disability processing, a medical provider must refer a service member to the disability evaluation system (DES) if they believe the member has a condition that prevents them from continued service. As part of this process, the service member has to be medically considered unfit; meaning there must be evidence the service member is unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. The Board determined the 2023 opinion from a medical provider reviewing your medical documents was not sufficient evidence that you had an unfitting condition in 2009. In reviewing your record, the Board concluded the evidence does not support a finding that you had a medical condition that prevented you from passing the PFT. In making this finding, the Board relied on the medical findings made contemporaneous with your active duty service. The Board noted there is sufficient documentation in your record that you received appropriate medical care during your active duty training and, other than your statement, there is no evidence you were prevented from seeking medical care for any medical conditions. The Board also noted your file

contains extensive notes regarding your recruit performance and showed that you received appropriate counseling throughout your recruit training that your performance was substandard and that you needed to improve your motivation and physical fitness. The recruit training staff noted you were not taking any medications, you gained five pounds while in the physical conditioning platoon, and repeatedly could not achieve the pull up requirement. Consequently, the Board determined that your administrative discharge for entry-level performance and conduct was supported by the evidence and there is no error or injustice in your record warranting correction of your record. 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,

2/27/2024

