



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. 983-24
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 2 May 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, 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 enlisted in the Marine Corps Reserve and entered active duty on 3 April 1978. On 8 September 1978, you underwent non-judicial punishment (NJP) for violating Article 86, unauthorized absence (UA) of the Uniform Code of Military Justice (UCMJ) and received forfeiture of pay. On 20 September 1978, you were released from your initial tour of active duty for training with an Honorable characterization of service.

On 10 May 1979, a medical record noted you went to medical due to skin irritation; the dermatologist stated there was no indication of pseudo folliculitis, but recommended administrative separation. On 17 November 1979, your Commanding Officer notified you of his intent to recommend administrative discharge by reason of misconduct, due to 17 unauthorized absences from scheduled drills, with an Other than Honorable (OTH) characterization of service. Ultimately, you were discharged from the Marine Corps Reserve, on 29 July 1980, with an OTH characterization of service.

For this petition, you contend you were in good standing until you were told that you had a skin condition which prevented you from maintaining Marine Corps grooming standards and warranted administrative separation. You argue you should have received a disability discharge vice a misconduct discharge. In addition, you request a DD-214 documenting your discharge.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant. These included, but were not limited to, your desire for a disability discharge because you suffered from a skin condition.

After thorough review, the Board concluded the potentially mitigating factors were insufficient to warrant relief. The Board noted although there was a medical note in your record recommending administrative separation, you were not processed for administrative separation for a medical condition, nor were you authorized to not drill due to this skin condition. Consequently, you continued to have a duty to report for drill and a duty to inform your command of an inability to complete scheduled drills. There is no evidence in your record that you communicated with your command. Instead, the evidence showed your command properly notified you of intent to administratively discharge you due to your UAs, your right to consult with a judge advocate, and your right to appear before the administrative discharge board. You did not respond to this notification and consequently you were discharged with an OTH per regulation. Further, the Board noted that Pseudofolliculitis barbae is not considered a qualifying disability condition for a referral to a medical board or a disability discharge.

Finally, per Department of Defense Instruction (DoDI) 1336.01, a Certificate of Release or Discharge from Active Duty (DD Form 214) is only issued to members after a period of active duty and is not issued for personnel discharged from the reserve component. An administrative counseling dated 8 May 1981, in your record documents you were issued an Under than Honorable Conditions Discharge Certificate and assigned a re-enlistment code of RE-4. Consequently, the Board determined your existing DD-214 from your only period of active duty is correct and you are not authorized another to document your OTH discharge from the Marine Corps Reserve. 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,

5/20/2024

