



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. 2197-24
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 1 August 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 underwent a medical processing examination on 4 November 1981. During that examination you revealed a history of back pain and previous diagnosis of a "slipped disc." However, you were found qualified for enlistment and began active duty training in the Marine Corps on 9 November 1981. On 17 December 1981, you were seen at medical for back pain. Subsequently, a medical board found that you did not meet the minimum standards for enlistment due to low back pain and recommended administrative discharge. On 22 December 1981, you were notified of administrative entry level separation due to erroneous enlistment, your right to counsel, and your right to submit statements in rebuttal. You signed paperwork requesting to be discharged due to erroneous enlistment. You were so discharged on 11 January 1982.

For this petition, you request a medical discharge and contend that you were cleared to enlist and suffered a back injury in the service. The Board carefully reviewed your petition and disagreed with your rationale for relief. In reviewing the evidence, the Board determined that your back condition existed prior to your entry into the Marine Corps. As you reported to medical personnel, you had “on and off” back pain after exertional activity and you previously were treated for back pain symptoms. That medical history and the fact you experienced debilitating back pain less than two months on active duty service led the Board to concluded your condition preexisted your entry into the Marine Corps and was should have disqualified you from enlisting. Therefore, the Board determined you were appropriately processed and discharged for erroneous enlistment. 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,

8/20/2024

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