



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

██████████
Docket No. 3815-24
Ref: Signature Date

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Dear ██████████

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 14 June 2024. The names and votes of the panel members 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 the 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, to include the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

You enlisted in the Marine Corps and commenced a period of active duty on 26 February 2001. On 26 June 2001, you were notified of the initiation of administrative separation proceedings by reason convince of the government due to a condition not a physical disability, at which point, you waived your procedural rights. You were recommended for discharge due to your chronic knee pain, which failed to respond to treatment. In addition, you failed to comply with scheduled appointments and declined further treatment. On 28 November 2001, you were counseled regarding your diagnosed physical condition, not a disability. Subsequently, on 20 December 2001, your commanding officer recommended your separation due to your physical condition. The separation authority approved and directed your discharge. Ultimately, on 10 January 2002, you were discharged with an uncharacterized entry level separation by reason of a condition not a disability.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to your desire to change your discharge characterization to Honorable and your contentions that you served with honor but were separated during rehabilitation. For purposes of clemency and equity consideration, the Board noted you provided a personal statement.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your uncharacterized entry level separation remains appropriate. Records document you were notified of administrative separation processing within your first 120 days of active duty. Service regulations direct the assignment of an uncharacterized entry level separation in cases where a service member is processed for administrative separation within their first 180 days of active service. While there are exceptions for cases involving extraordinary performance or misconduct, the Board determined neither exception applied in your case. Finally, the Board did not find any injustice with your case based on your failure to adhere to scheduled appoints and refusal to accept recommended treatment. 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,

7/5/2024

