



of your injury to your recruiter but were told not to disclose the information to medical. Your allegation was investigated and found to be unsubstantiated.

Consequently, you were notified of pending administrative processing for an entry level separation by reason of defective enlistment-fraudulent enlistment due to your undisclosed injury prior to enlistment. You waived your rights to consult counsel or submit a statement to the Separation Authority. The Separation Authority subsequently directed your uncharacterized, entry level discharge, and you were so discharged on 21 April 1989.

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 of service and your contentions that you were encouraged by a Sergeant and a Staff Sergeant to lie about your injury, you came forward with the truth after you arrived at basic training, and that you were told your discharge would be automatically upgraded to Honorable after six months. For purposes of clemency and equity consideration, the Board noted you provided no evidence in support of your application.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board found no error or injustice in your assigned uncharacterized entry level separation. Based on your statements and the evidence in the record, the Board determined that prior to commencing active duty, you failed to disclose that you had an ACL injury that required surgery, and that this injury would have precluded you from commencing active duty at that time. The Board found no evidence in the record, or in your application, to support your contention that you were encouraged by anyone to lie about your knee injury, and that the record indicates that this allegation was investigated while you were in-service and found to be unsubstantiated. The Board further noted that you were processed and discharged ten days after you began active duty, well within the one-hundred-eighty days that warranted an entry-level, uncharacterized discharge. While there are exceptions to this policy, the Board determined none applied in your case. Finally, the Board noted that there is no provision of federal law or in Marine Corps regulations that allows for a discharge to be automatically upgraded after a period of time.

As a result, the Board did not find evidence of an error or injustice that warrants granting you the relief you requested or granting relief as a matter of clemency or equity. 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,

10/24/2024

