



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE RD  
ARLINGTON, VA 22204

█  
Docket No. 5243-25  
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 20 February 2026. 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)<sup>1</sup>.

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.

The following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

1. You enlisted in the U.S. Marine Corps and began a period of active duty service on 22 January 2002. Your pre-enlistment physical examination, on 6 April 2001, and self-reported

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<sup>1</sup> The Board noted you checked the "Other Mental Health" box on your application but did not respond to the Board's request to provide evidence in support of your claim. In addition, your application did include any medical evidence. Therefore, the Board did not consider your application under the guidance provided in the Kurta and Hagel memos.

medical history both noted no orthopedic, psychiatric, or neurologic symptoms, conditions or issues.

2. Following an eight-mile hike during initial recruit training, on 23 March 2002, you were placed on light duty due to a swollen and sore knee. On 25 March 2002, you were reevaluated and diagnosed with bursitis of the right knee. On 26 March 2002, you were dropped into “MRP” at MCRD and underwent weekly follow-up appointments.

3. An X-ray conducted on 15 May 2002 revealed a stress fracture of your right tibia. The Branch Medical Clinic (BMC) recommended you for an entry level separation (ELS) and noted that your condition was unlikely to change if retained. A “Page 11” entry noted you were counseled, on 10 July 2002, regarding your unresolving tibia fracture and documented that you were recommended for an administrative separation.

4. On 18 July 2002 your command notified you that you were being processed for an administrative discharge by reason of convenience of the government due to a condition not amounting to a disability, as evidenced by your right leg stress fracture. On the same day, you waived your rights in writing to consult with counsel and to submit written rebuttal statements to the proposed separation. On 23 July 2002, the Separation Authority (SA) approved and directed your uncharacterized ELS. Ultimately, on 24 July 2002, you were separated from the Marine Corps with an uncharacterized ELS discharge and assigned an RE-3P reentry code.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately processed for administrative separation based on your record of misconduct. While the Board carefully considered your contentions regarding your administrative separation processing, the Board noted you did not provide any evidence, other than your statement, to substantiate your contention that you were denied due process. Therefore, the Board determined the presumption of regularity applies to your administrative separation processing and found no error with your separation.

The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your contentions, your need for veterans’ benefits, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board determined that there was no credible or convincing evidence in the record regarding any command misconduct, improper motives, or abuses of discretion in the investigating, handling, and processing of your administrative separation due to your knee injury and stress fracture. The Board also noted that separations initiated within the first 180 days of continuous active duty will generally be described as ELS except when an Honorable discharge is approved by the Secretary of the Navy in cases involving unusual circumstances not applicable in your case. The Board observed that the 180-day clock stops on the day you are notified of a proposed administrative separation and not the day you are ultimately separated. The Board

noted that your command initiated administrative separation processing on 18 July 2002, which was day 178 of your active duty service. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating medical, veterans or veterans' benefits, or enhancing educational or employment opportunities.

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,

3/4/2026

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Executive Director

Signed by: █