

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JULIUS R. HENDERSON,)

Plaintiff,)

v.)

THE UNITED STATES MARINE CORPS,)

Defendant.)

No. 4:17-CV-2349 CDP

MEMORANDUM AND ORDER

This matter is before the Court on review of the file following plaintiff's response to the Court's order dated November 27, 2017. For the following reasons, the Court will direct the Clerk of Court to issue process on plaintiff's complaint.

Plaintiff's complaint requests the Court to review the type of discharge he received from the United States Marine Corps. Before the Court can review the merits of a claim to correct a plaintiff's military records or reinstate his eligibility for retirement benefits, however, plaintiff must exhaust his administrative remedies by appealing to the appropriate review board, in this case the Board for Correction of Naval Records (the "Board"). *See Bryant v. Dep't of Army*, 553 F. Supp. 2d 1098, 1103 (D. Minn. 2008).

On November 27, 2017, the Court ordered plaintiff to show cause, in writing, why this action should not be dismissed without prejudice to allow plaintiff to exhaust his administrative remedies under 10 U.S.C. § 1552. In response to the Court's order, plaintiff submitted documentation from the Department of the Navy, which stated that a three-member panel of the Board had considered and denied plaintiff's request for a medical discharge on September 13, 2012. *See ECF No. 7-1 at 7.* Plaintiff submitted a separate letter from the Board, which stated

that a three-member panel of the Board had considered and denied his application again on February 9, 2016. The letter states that the Board had previously denied plaintiff relief on January 19, 2005, March 14, 2008, and September 13, 2012. *See id.* at 7-1 at 13-14.

Plaintiff has sought and been denied administrative remedies for correcting his military records. Based on a review of the plaintiff's filings, the Court finds plaintiff has exhausted his administrative remedies before the Board. Therefore, the Court will order the Clerk of Court to issue process on plaintiff's complaint.

Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court is directed to issue process or cause process to issue on plaintiff's complaint.

Dated this 8th day of February, 2018.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE