



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

Docket No. 2913-16
FEB 13 2017

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

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 for Correction of Naval Records, sitting in executive session, considered your application on 1 December 2016. 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, your naval record and applicable statutes, regulations and policies.

A review of your record shows that you entered active duty with the Navy in January 1973 and served approximately two years before transferring to the Navy Reserve in January 1975. On 2 October 1975, you were injured at your civilian employment when you fell off a semi-truck. On 25 August 1976, your command sought a medical retention review due to your extended absence from drills due to your October 1975 injuries. On 13 December 1976, the Bureau of Medicine and Surgery determined you were not physically qualified for retention due to chronic lower back pain. This resulted in your discharge from the Navy Reserve on 1 February 1977.

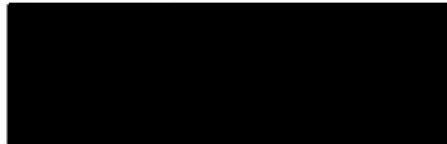
The Board carefully considered your arguments that you deserve to be placed on the Permanent Disability Retirement List for your disability. Unfortunately, the Board disagreed with your rationale for relief. The Board concluded that your disability was not incurred in the line of duty as evidenced by a report that shows you were injured while performing your civilian job. Since your disability was not incurred in the line of duty, you do not qualify for a disability retirement from the Navy. Accordingly, the Board was unable to find an error or injustice warranting a correction to your record and denied your application. The names and votes of the members of the panel will be furnished upon request.

With regard to your request to change to amend your DD Form 149 to reflect a discharge from the Reserves, additional awards and decorations, and documentation of combat or hostile fire,

because your request is for an administrative correction which does not require action by this Board, you may submit your request to the Department of Navy, Navy Personnel Command (BUPERS), Code Pers-312, 5720 Integrity Drive, Millington, TN 38055-3120. Board regulations require Petitioners to exhaust all administrative remedies prior to applying to the Board.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new evidence within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in this case. 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,

A large black rectangular redaction box covering the signature of the Executive Director.

Executive Director