



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

[REDACTED]
Docket No. 4300-16

JUN 11 2017

[REDACTED]
Dear [REDACTED]

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

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 May 2017. 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. In addition, the Board considered the advisory opinion contained in Director, Secretary of the Navy Council of Review Boards letter 5220 CORB: 002 of 10 March 2017; a copy of which was provided to you for comment.

A review of your record shows you entered service with the Navy Reserve in June 1992. In April 2015, you were found unfit for continued naval service due to cervical spondylosis with headaches as an underlying condition. You filed a Petition for Relief requesting a separate unfitting finding for your headaches but were denied on 16 June 2015. In September 2015, the Department of Veterans Affairs rated you for a number of service connected conditions including headaches and Traumatic Brain Injury (TBI).

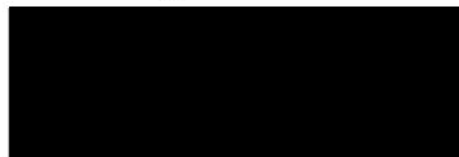
The Board carefully considered your arguments that you deserve to be placed on the disability retirement list for migraine headaches, mild TBI, and Post-Traumatic Stress Disorder (PTSD). Unfortunately, the Board disagreed with your rationale for relief. In making their findings, the Board substantially concurred with the advisory opinion contained in Director, Secretary of the Navy Council of Review Boards letter 5220 CORB: 002 of 10 March 2017. First, the Board concluded that there was insufficient evidence that your headaches were unfitting as a separate condition. The Board relied upon the non-medical assessment provided by your command that focuses on your neck condition as the reason for your inability to perform. While the Board took note of the mention of an incident where you were taken off watch duty as a result of headaches symptoms, this single incident was insufficient in the Board's opinion to support a finding that migraine headaches caused a significant occupational impairment. Second, the Board lacked any

evidence of PTSD and noted that there was no diagnosis for the condition and the VA did not rate it as a service connected disability condition. Third, there was similarly a lack of evidence in your record to support a finding that your mild TBI created an occupational impairment. Even though you were issued a 50% disability rating by the VA, there was no evidence in your record that showed a cognitive occupational impairment caused by the condition. The Board could not rely solely on your VA rating since eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated. 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.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issue(s) involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence not previously 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,



Executive Director