



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

[REDACTED]
Docket No. 6648-16
MAR 27 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. Your case was reconsidered in accordance with procedures that conform to *Lipsman v. Secretary of the Army*, 335 F. Supp. 2d 48 (D.D.C. 2004). You were previously denied relief by this Board on 29 April 2016.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 February 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. However, after careful and conscientious consideration of the entire record, the Board determined that while your request does contain new information not previously considered by the Board, it does not warrant relief. Accordingly, your request has been denied. The names and votes of the members of the panel will be furnished upon request.


The Board carefully considered your arguments that you deserve a disability discharge based on a qualifying disability. You provided new evidence of continued treatment including additional surgeries to your feet in 2016. You also assert that you were unable to reenlist due to your condition. Unfortunately, the Board disagreed with your rationale for relief. The Board did not find your new evidence persuasive. The fact you required surgery to your feet 15 years after your discharge did not convince the Board you were unfit at the time of your discharge. As explained in the previous decision letter, there is insufficient evidence to support a finding that you suffered an occupational impairment from your condition that was sufficient to warrant a finding of unfit to continue naval service. The Board again relied upon your stellar work performance just prior to your discharge and the reentry code that showed there were no physical restrictions to you reenlisting. These facts combined with the medical evidence that showed your test results and x-rays were normal convinced the Board that the Physical Evaluation Board findings of 29 May 2001 and 11 July 2001 were correct and you were fit for continued naval

service at the time of your discharge. Accordingly, the Board determined no error or injustice exists in your case.

It is regretted that the circumstances of your reconsideration petition are such that favorable action cannot be taken again. 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 the absence of sufficient new and material evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

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 solid black rectangular box used to redact the signature of the Executive Director.

Executive Director