



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

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Docket No: 5855-20

Ref: Signature Date

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Dear █

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 for Correction of Naval Records, sitting in executive session, considered your application on 16 December 2020. The names and votes of the members of the panel 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 this 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.

You enlisted in the Navy on 13 October 1992. According to the information in the record, on 28 October 1992, a Medical Evaluation Board (MEB) determined you had conductive hearing loss in the left ear and nasopharyngeal mass, which did not meet enlistment medical standards due to past medical history that existed prior to enlistment (EPTE). As a result, the MEB recommended you be separated from the Navy. On 7 January 1993, a Physical Evaluation Board (PEB) concluded that you suffered from conductive hearing loss in the left ear and nasopharyngeal mass that EPTE, which made you unfit for naval services. Although the Board lacked your entire service record, the Board relied on a presumption of regularity that you were notified of the recommendation that you be discharged by reason of physical disability that existed prior to enlistment. After you waived your procedural rights, your commanding officer (CO) recommended an entry-level separation due to a physical disability that existed prior to enlistment. The discharge authority approved this recommendation and directed an entry level separation by reason of a physical disability that existed prior to enlistment. On 01 February 1993, you were discharged.

As stated previously, the Board relies on a presumption of regularity to support the official actions of public officials and, in the absence of substantial evidence to rebut the presumption, to include evidence submitted by the Petitioner, the Board presumes that you were properly discharged from the Navy.

The Board carefully weighed all potentially mitigating factors such as your desire to upgrade or change your discharge, contentions that prior to enlistment, you provided medical records, which showed sufficient evidence of your previous medical condition and you were found fit for duty by a physician contracted by the Navy. The Board also noted your contention that your condition was aggravated during your service in the Navy due to mal instructions and negligence. However, the Board found that these factors were not sufficient to warrant changing your characterization of service given your diagnosed conductive hearing loss in the left ear, nasopharyngeal mass that EPTE, and recommendations from a MEB and a PEB.

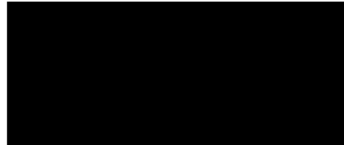
In regard to your contentions that prior to enlistment, you provided medical records, which showed sufficient evidence of your previous medical condition and you were found fit for duty by a physician contracted by the Navy, the Board noted that the record contains documented evidence which is contrary to your contention. The record clearly shows that on 27 October 1992, a biopsy of the nasopharynx revealed Nasopharyngeal Mucosal tissue with chronic inflammation. A reevaluation by the ENT specialist revealed a 45db loss in your speech frequencies. As a result, you were recommended for a waiver, but because there were no guarantee that the left side hearing loss could be brought to recruit standards with surgery, the waiver recommendation was denied in accordance with Navy regulation (BUMED-25). Therefore, on 28 October 1992, a MEB recommended you be separated from the Navy and on 7 January 1993, a PEB recommended you be separated from the Navy. Regarding your contention that your condition was aggravated during your service in the, the Board noted that there is no evidence in your record, and you submitted none, to support your contention. The Board also noted that you were notified of your separation processing within 180 days of the beginning of your period of active service. Applicable regulations authorize an uncharacterized entry-level separation if the processing of an individual's separation begins within 180 days of the individual's entry on active service.

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 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,

12/31/2020



Executive Director

Signed by: _____