



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. 7355-20
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 relevant portions of your naval record and your application, 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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 10 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.

A review of your record shows that you entered active duty with the Marine Corps on 13 November 1972. You were convicted by a Summary Court-Martial on 30 November for disrespect and punished with non-judicial punishment for an unauthorized absence on 11 April 1973. On 11 June 1973, you were diagnosed with Pseudofolliculitis Barbae and recommended for administrative separation for convenience of the government. You requested an expedited separation on 19 July 1973 before being discharged on 1 August 1973 with a General Under Honorable Conditions characterization of service. On 9 May 2016, the Department of Veterans Affairs (VA) granted you a Post-Traumatic Stress Disorder (PTSD) service connection with a disability rating of 70%. As of 2020, the VA has assigned you a 100% rating due to individual unemployability.

The Board carefully considered your arguments that you deserve to be placed on the disability retirement list. You argue that you were unfit for continued naval service due to a mental health condition and not given a proper medical evaluation prior to your discharge. Unfortunately, the Board disagreed with your rationale for relief. In reviewing your record, the Board found no evidence that you were unable to perform the duties of your office, grade, rank or rating as a

result of a qualifying disability condition. While you were punished for two incidents of misconduct while on active duty, you were ultimately discharged as a result of your Pseudofolliculitis Barbae condition and not for performance or conduct issues. Since Pseudofolliculitis Barbae was not a compensable disability condition under the military disability system, the Board concluded you were appropriately discharged at the convenience of the government for a condition not considered a disability. Additionally, the Board noted that you were deemed medically qualified for discharge from the Marine Corps in 1973. Finally, the Board did not find your 2016 VA rating probative on the issue of unfitness in 1973 based on the approximately 43 years that passed between your discharge from the Marine Corps and issuance of the VA rating. The Board considered also took into consideration that 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. As previously stated, the Board found no evidence of unfitness in your record. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your record.

While the Board considered the evidence related to the care of your child and marital difficulties in 1973, the Board concluded this was insufficient mitigation evidence to merit your placement on the disability retirement list as a matter of injustice.

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 issues 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. 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,

 2/14/2020

Deputy Director

Signed by: 