



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

█
Docket No. 7606-20
Ref: Signature Date

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 Navy in June 1981. Non-judicial punishment was imposed on you in December 1982 and January 1983 for unauthorized absences. Subsequently, you were convicted by a special court-martial on 5 September 1984 for an extended unauthorized absence totaling over 12 months. As a result, you were discharged with a Bad Conduct Discharge on 5 February 1986 after the completion of your appellate process.

The Board carefully considered your arguments that you deserve a disability discharge based on your assertion that you were molested by a priest between the ages of 11-13 years old. You also assert that you informed your recruiters about your mental health condition but were allowed to enter the Navy. Unfortunately, the Board disagreed with your rationale for relief.

First, the Board found no evidence in your record that you were unable to perform the duties of your office, grade, rank or rating as a result of any disability condition. Absent evidence you suffered from an occupational impairment due to a qualifying disability condition, the Board found no basis for a disability discharge. Second, the Board found no evidence to substantiate

your assertion of preservice abuse or a mental health diagnosis that would merit a referral to the Disability Evaluation System (DES). Third, even if there was evidence to support a referral to the DES, the Board concluded you were ineligible for disability processing on the basis of your misconduct that resulted in a punitive discharge from the Navy. Disability regulations direct misconduct related discharges to supersede disability processing. Finally, the Board noted that you did not list any mental health issues on your enlistment report of medical history. This was further evidence relied upon by the Board to determine there was insufficient evidence that you suffered from any disability condition prior to entering active duty or while on active duty. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your record.

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,

12/14/2020

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Deputy Director

Signed by: 