



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: 2117-21

Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. 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 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, sitting in executive session, considered your application on 3 December 2021. The names and votes of the panel members 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 the 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, an advisory opinion (AO) provided by Navy Department Board of Decorations and Medals (NDBDM) dated 14 October 2021, and applicable statutes, regulations, and policies, to include Executive Order 9277 and Secretary of the Navy Manual 1650.1.

You enlisted in the Navy and began a period of active service on 24 February 1948. You were designated a third-class petty officer in the rating of corpsman on 16 November 1949 and subsequently assigned to serve with █ Battalion, █ Marine Division, █ Provisional Marine Brigade, ultimately earning the Korean Service Medal, United Nations Service Medal, Good Conduct Medal, and two Presidential Unit Citation's during your service in Korea. You were honorably discharged on 21 February 1952 and received a DD Form 214 Report of Separation from the Armed Forces of the United States (DD-214). You had a break in service and reenlisted on 1 April 1952. After your first reenlistment, you submitted a retroactive claim for Korean War combat pay via your chain of command on 28 November 1952. You reenlisted a second time on 3 January 1956. During this enlistment, on 21 January 1957, you submitted a successful request for the correction of your naval records to correct errors in your DD-214. You also submitted a request on 5 March 1959 via your chain of command to the Chief of Naval Personnel to issue large medals for a list of awards to which you affirmed you believed you were entitled. This list of awards, which relied in part on the information included in the DD-214 issued after your

second enlistment, included the Korean Service Medal (unconfirmed), the United Nations Service Medal (confirmed by your DD-214), the China Service Medal (extended) (unconfirmed), and the Navy Good Conduct Medal second award (confirmed by your DD-214). Return correspondence confirmed your entitlement to the Korean Service Medal, the United Nations Service Medal, and a 3rd award of the Good Conduct Medal.

At the time you were honorably discharged on 27 November 1967 and transferred to the Fleet Reserve List, your record reflects that you were entitled to all of the awards discussed above with the exception of the China Service Medal and, in addition to those discussed above, to the National Defense Service Medal, Navy Unit Citation, and a total of six Good Conduct Medals.

The Board carefully weighed all of the factors you presented to support your award request. The Board noted that you submitted two requests for review of your record, to confirm entitlement to the Purple Heart Medal (PHM), to Navy Personnel Command (NPC) on 14 September 2006 and 10 September 2007. From those petition records, it appears that you included the two witness statements which you obtained from [REDACTED] and [REDACTED] in January of 2001 for NPC's consideration. NPC reviewed your records in connection to your request and the statements you submitted in support of your entitlement to the PHM and found both times that no documentation exists in available records proving that the wounds were received as the direct or indirect result of enemy fire. Although NPC's decision did not provide an amplifying explanation in regard to your witness statements, the Entitlement to Military Awards Supplement issued with each determination included a discussion of the requirement for sworn statements which specified that "The statements must address the nature of the injury *and how it occurred*" (emphasis added).

You provided those two witness statements for consideration with your current application. To the extent that the AO from the NDBDM opined that there did not appear to be any loss of records in your case, the Board did not concur. The Board observed that, after the record of your designation as a petty officer third class following the conclusion of your initial training as a corpsman in 1949, your service record reflects the complete absence of any documents throughout the entire period of your first enlistment with the exception of your 1952 DD-214. Proof of your Korean War service in your naval record is limited to block 27 of that DD-214, identifying your entitlement to service awards from the Korean War, and block 28, which specified that your most significant duty assignment was to 3d Battalion, 5th Marine Division, Fleet Marine Forces, and without which your record would contain no indication of your combat unit assignment. The only other documentation of your combat service is found in your 1952 request for combat pay, which you submitted during a subsequent enlistment and after a break in service. The Board also noted that you were attached as a Navy service member, during a time of war, to a hastily assembled regiment within an ad hoc Marine brigade. As such, the Board determined that there is sufficient evidence to indicate a loss of records from that period of service, and the Board reviewed your witness statements in the context of your current application and in accordance with governing regulations. In its review, the Board noted that only one statement specifies the nature of an injury to your face, whereas the other observed blood running down your trouser leg without identifying any injury; neither statement identified how the injury occurred. For this reason, the Board determined that there is insufficient evidence of the nature and cause of your injury to establish that you suffered a qualifying injury as defined by Executive Order 9277.

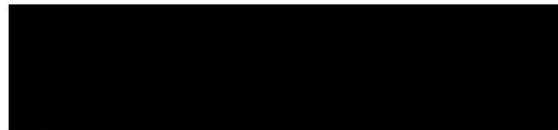
The Board also noted that you subsequently petitioned to Headquarters Marine Corps (HQMC) for consideration of your entitlement to the PHM. In its response, and consistent with the NDBDM AO and with the requirements of Executive Order 9277, HQMC outlined the severity threshold required before an injury qualifies for entitlement to the PHM. Specifically, the injury must have required treatment by a medical officer. Regulations define a medical officer as a physician with officer rank. With respect to this severity requirement, the Board carefully reviewed the additional documentation you provided from a certified nurse practitioner at the Captain James A. Lovell Federal Health Center as well as your most recent contention that you were subsequently attended by a doctor who cleaned your wound, removed shrapnel, and closed it after completing your combat duties. Unfortunately, upon an objective review of the evidence you provided in regard to the specific criteria for entitlement to award of the PHM, and given the absence of your in-service medical records, the Board concurred with the NDBDM AO that your injury did not meet the severity threshold because there is insufficient evidence that it required treatment by a medical officer.

The Board recognizes your honorable and faithful service in the Navy and sincerely appreciates the sacrifice you made volunteering for the perilous duties of a combat corpsman alongside U.S. Marines during the Korean War. The Board shares the sentiment expressed by the NDBCM that the Board's analysis and findings are not intended in any way to diminish the value of your service to the Nation.

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,

1/9/2022

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Executive Director

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