



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. 2225-21
Ref: Signature Date

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Dear █

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 7 October 2021. 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 July 2002. After being found unfit for back issues by the Physical Evaluation Board, you were released from active duty on 30 April 2009 and transferred to the Temporary Disability Retirement List (TDRL). On 5 September 2014, you were administratively removed from the TDRL for failing to appear for your periodic examination.

The Board carefully considered your arguments that you should be placed on the Permanent Disability Retirement List (PDRL) or reinstated to the TDRL for a reevaluation. You assert that you changed your address with the Department of Veterans Affairs and Department of Defense in 2011-2012 but never received any periodic examination orders. You state that your condition has not improved and you would like to have access to TRICARE benefits. Unfortunately, the Board determined insufficient evidence exists to support relief in your case. In reviewing the evidence in your case, the Board found no evidence to substantiate your assertions that you informed the proper authorities of your change in address in 2011-2012. The Board concluded it was your responsibility to ensure the Navy was aware of your change in address and lacked evidence that you informed the Navy. In addition, the Board determined you failed to exercise

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the necessary due diligence to ensure you contacted the Navy to ensure completion of your periodic TDRL examinations before you were administratively removed in 2014. Based on the your TDRL status, the Board concluded you were aware that a periodic examination was required and you failed to inquire of your status until many years after your administrative removal from the TDRL. Due to your lack of diligence and evidence, the Board determined your reinstatement to the TDRL would not be appropriate. The Board also considered that since your condition may have worsened significantly since 2014 and a current reevaluation would not accurately reflect your disability status in 2014. In making this finding, the Board took into consideration that you have access to Department of Veterans Affairs medical services. Finally, the Board found no evidence to support a finding that you should be placed on the PDRL. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your record.

The Board determined that your personal appearance, with or without counsel, would 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.

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,

10/12/2021

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Deputy Director

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