



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. 2743-21
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 30 September 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. In addition, the Board considered the advisory opinion contained in Director CORB letter 5819 CORB: 001 of 11 August 2021 along with your response to the opinion.

A review of your record shows that you entered active duty with the Navy in June 2002 as a Medical Officer. You deployed to █ in 2006 as a member of a shock and trauma medical team and witnessed severe wounds and deaths of service members you treated. In addition, you assert that you were exposed to trauma associated with the near miss of indirect fire rockets that injured your friends. Upon your return from █ you commenced mental health treatment and were diagnosed with Post-Traumatic Stress Disorder (PTSD) in addition to being treated for Fibromyalgia. Eventually, you were referred to the Disability Evaluation System, found unfit for Fibromyalgia, and placed on the Permanent Disability Retirement List in January 2014. You previously applied to the Combat Related Special Compensation (CRSC) Board for your disability conditions. While you were approved for your Fibromyalgia and IBS conditions, the CRSC Board determined on three occasions that your PTSD did not qualify for CRSC since there was insufficient evidence that it was incurred as a result of a specific combat-related event. You subsequently filed an application with this Board requesting CRSC for your PTSD.

[REDACTED]

The Board carefully considered your arguments that your PTSD qualifies for CRSC based on evidence that your condition was incurred as a result of trauma you experienced while in [REDACTED]. You provided medical evidence that documents your assertions of trauma that resulted in your diagnosis for PTSD. Unfortunately, the Board concluded insufficient evidence exists to grant you the relief you seek. In making their findings, the Board substantially concurred with the advisory opinion in your case.

Section 1413a of Title 10, United States Code, provides the statutory authority for payment of CRSC. Based on procedures and criteria prescribed by the Secretary of Defense, it allows for payment of CRSC for combat-related disabilities incurred as a direct result of armed conflict, while engaged in hazardous service, in the performance of duty under conditions simulating war, or through an instrumentality of war. In addition, CRSC may be awarded if a disability is attributable to an injury for which a Purple Heart was awarded. The Office of the Under Secretary of Defense issued a Directive Type Memorandum on 27 April 2004 that provided guidance on CRSC. Additionally, Department of Defense Regulation 7000.14-R (Financial Management Regulation) also addresses CRSC by stating “determinations of whether a disability is combat-related for CRSC will be based on the preponderance of available documentary information where quality of information is more important than quantity. All relevant documentary information is to be weighed in relation to known facts and circumstances, and determinations will be made on the basis of credible, objective documentary information in the records as distinguished from personal opinion, speculation, or conjecture.” In reviewing the evidence in your case, the Board agreed with the CRSC Board analysis that insufficient evidence exists to support a finding that your PTSD was incurred as a result of a specific combat related event. As pointed out in the advisory opinion, simply incurring PTSD in a combat zone or while performing combat operations is insufficient to support a combat-related determination under existing departmental guidelines. There must be a preponderance of documentary evidence that supports a combat-related determination. While the Board took into consideration that your medical record supports a diagnosis of PTSD based on your assertions of trauma witnessed in [REDACTED] the Board concluded this was insufficient to meet the documentary evidentiary standards since there is no corroborating evidence in your record. The Board determined PTSD developed as a result of witnessing death and wounds did not qualify for CRSC since these circumstances do not meet the definition of “direct result of armed conflict” under the departmental guidance. In the guidance, armed conflict is defined as action in which service members are engaged with a “hostile or belligerent nation, faction, force, or terrorists.” The Board concluded that you were not engaged with the enemy when you experienced trauma associated with witnessing death and injuries. Regarding your claim of a near miss rocket attack, the Board agreed with the CRSC Board that there is no evidence to substantiate your claim other than medical records that document your assertions. Therefore, based on the lack of corroborating evidence, the Board determined this claim failed to meet the evidentiary standards contained in Department of Defense Regulation 7000.14-R. Should you obtain evidence that substantiates your claim that you were nearly killed by a rocket attack, the Board encourages you to submit a reconsideration request to the CRSC Board or to this Board. 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

[Redacted]

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,

10/5/2021

[Redacted Signature]

Deputy Director

[Redacted Title]