



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

█  
Docket No. 3400-21  
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.

A three-member panel of the Board, sitting in executive session, considered your application on 22 July 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 5220 CORB: 20 of 5 September 2019; a copy of which was previously provided to you for comment.

A review of your record shows that you entered active duty with the Navy in April 1974. After a period of creditable service that included participation in the Desert Shield/Desert Storm, you retired from the Navy in July 1994. In 2017, you filed for Combat Related Special Compensation (CRSC) for your tinnitus condition. The CRSC Board denied your claim based on lack of evidence your tinnitus was incurred as a result of a specific combat related event.

The Board carefully considered your arguments that you deserve CRSC for your tinnitus. You argue that your tinnitus was incurred while engaged in hazardous service as a result of your participation in Desert Shield/Desert Storm onboard a ship. Unfortunately, the Board disagreed with your rationale for relief. 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." Departmental guidance and regulations state that in order to qualify for CRSC due to hazardous service, a service member must provide evidence that they were engaged in service that "includes, but is not limited to, aerial flight, parachute duty, demolition duty, experimental stress duty, and diving duty." In your case, the Board was unable to find any evidence that your duties as an Electrician's Mate onboard a ship met the criteria for hazardous service in order to qualify for payment of CRSC for your tinnitus. Regarding your claim for hazardous service as a result of your participation in Desert Shield/Desert Storm, the Board also concluded the preponderance of the evidence does not support relief. Qualifying for CRSC as a result of armed conflict requires a member to be "engaged with a hostile or belligerent nation, faction, force, or terrorist." The guidance specifically states that presence in an area of armed conflict or while participating in combat operation is insufficient to qualify for CRSC. Therefore, the Board concluded that your participation in Desert Shield/Desert Storm onboard a ship was insufficient to meet the requirements of "engaging" with the enemy. Based on these findings, the Board determined that the preponderance of the evidence supports the CRSC Board decision in your case. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your 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,

7/23/2021

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Deputy Director

Signed by:

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