



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

■  
Docket No. 3402-21  
Ref: Signature Date

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 29 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: 001 of 9 September 2019 along with your response to the opinion.

A review of your record shows that you entered service with the Navy Reserve in 1989. You were mobilized in support of Operation Iraqi Freedom in August 2008 and participated in predeployment training in ■. On 9 November 2008, you reported to medical that you suffered a shoulder injury during rollover training at ■ on 24 September 2008. You consistently maintained the origins of your shoulder injury in your post-deployment health assessments and reports of medical history prior to your demobilization. After your retirement from the Navy Reserve in 2015, the Department of Veterans Affairs rated you for left shoulder articular damage with degenerative joint disease in 2018. Based on this disability rating, you filed for Combat Related Special Compensation (CRSC) due to instrumentality of war. In 3 October 2018, the CRSC Board denied your application based on lack of evidence that your injury was caused by the September 2008 training incident. Your request for reconsideration was similarly denied by the CRSC Board on 3 December 2018 based on lack of evidence.

The Board carefully considered your arguments that you deserve CRSC for your left shoulder condition based on instrumentality of war or conditions simulating war. You argue that your

medical record documents the source of your shoulder injury and denial based on lack of substantiating evidence is unfair. Unfortunately, the Board disagreed with your rationale for relief. In making their finding, 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 your case, the Board concluded the preponderance of the evidence does not support a finding that your shoulder injury was incurred as a result of an instrumentality of war or under conditions simulating war. The Board considered your medical evidence but determined that it lacked the necessary substantiation to support your application for CRSC. While the Board acknowledges that you consistently claimed the origins of your injury was the September 2008 training incident, the Board noted that you failed to report the injury until approximately six weeks after the incident. Regardless of your reasons for failing to report your shoulder injury at the time you incurred it, the delay in your reporting and treatment must be considered along with the absence of corroborating evidence to support your assertions to your medical providers. After weighing the totality of the evidence, the Board found that insufficient evidence exists to support your claim that your shoulder injury was incurred during a training accident in September 2008. As required by the CRSC guidance, determinations of whether a disability is combat related “will be made of the basis of credible, objective documentary information in the records as distinguished from personal opinion.” Absent additional evidence that corroborates your belief that your shoulder injury was incurred during the September 2008 training, the Board concluded that your medical record entries regarding the origins of your injury only amount to a documentation of your personal opinion. Therefore, based on the available evidence, the Board determined it could not find a nexus between your shoulder injury and the September 2008 training to conclude, by the preponderance of the evidence, that it was incurred as a result of an instrumentality of war or under conditions simulating war. 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,

7/30/2021

[Redacted signature area]

Deputy Director

Signed by: [Redacted name]