



The Board carefully considered your arguments that the CRSC failed to properly consider the evidence in your case and applied the wrong standard in denying your requests for CRSC. You also argue that, in addition to armed conflict, you qualify for CRSC under instrumentality of war based on your exposure to different armed munitions that were fired, directly and indirectly, at you. Unfortunately, the Board disagreed with your rationale for relief.

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 determined the preponderance of the evidence does not support a finding that you qualify for payment of CRSC under armed conflict or instrumentality of war. First, the Board determined there was insufficient evidence that you were engaged with the enemy to qualify for CRSC based on armed conflict. The aforementioned CRSC guidance requires a service member to be “engaged with a hostile or belligerent nation, faction, force, or terrorists” to qualify for CRSC as a result of armed conflict. While the Board noted that you were present during an attack on your convoy and present in an area of combat, they were unable to find evidence that you were actually engaged with the enemy as required by the guidance. The Board took into consideration that you do not possess a Combat Action Ribbon or any other combat related awards that would support a finding of engaging with the enemy. In addition, the Board considered the fact that the CRSC guidance also states “the fact that a member incurred the disability during a period of war or an area of armed conflict or while participating in combat operations is not sufficient to support a combat-related determination.” In the Board’s opinion, the preponderance of the evidence only supports a finding that you incurred PTSD as a result of your presence in a combat area while participating in combat operations. Absent evidence that you were actually engaged with the enemy, the Board determined the evidence is insufficient to support payment of CRSC based on armed conflict. Second, the Board determined that you do not qualify for CRSC under instrumentality of war. While different types of munitions utilized in a combat area certainly qualify as instrumentalities of war, the Board determined that your PTSD was not caused by the munitions. Rather, the Board concluded that your fear of being struck by these munitions is what led to your PTSD. In making this finding, the Board considered the fact that almost everyone who serves in a combat area is subject to direct or indirect fire during some time during their deployments. By using your rationale, everyone exposed to these different type of munitions would qualify for CRSC provided they develop PTSD. Similarly, a member could qualify for CRSC if they develop PTSD based on the fear of

being struck by a passing military vehicle or having a weapon pointed at them. In the Board's opinion, this is inconsistent with the CRSC guidance that envisions some form of physical contact between the instrumentality of war and the injury, e.g. being struck by a Humvee. In addition, the Board felt it was inconsistent with the policy guidance that limits payment of CRSC for injuries incurred by simply being present in a combat zone or during combat operations. 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.

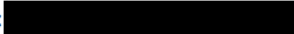
Sincerely,

7/30/2021

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Deputy Director

Signed by:

A black rectangular redaction box covers the name of the Deputy Director.