



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. 4443-21
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 on 22 June 1979. On 3 July 1979, you were referred for an evaluation after exhibiting poor performance and diagnosed with an inadequate personality. Eventually, you were discharged for substandard performance on 11 July 1979. On 10 January 2020, the Department of Veterans Affairs (VA) documented that you were assigned a 70% rating for Post-Traumatic Stress Disorder (PTSD) effective in 2019. On 30 November 2020, the VA documented additional disability ratings for tinnitus (10%) and Bilateral hearing loss (0%).

The Board carefully considered your arguments that you deserve a change to your narrative reason for separation to disability. You assert that you suffered trauma to your head and ears during riots in 1979 that resulted in hearing loss, PTSD, and Tinnitus. Unfortunately, the Board disagreed with your rationale for relief.

In order to qualify for military disability benefits through the Disability Evaluation System with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member

[Redacted]

may be found unfit if their disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting. In your case, the Board concluded the preponderance of the evidence does not support a finding that you met any of the criteria for unfitness at the time of your discharge from the Navy. Your military record documents that you were discharged for substandard performance vice occupational impairments related to hearing loss, PTSD, or Tinnitus. Absent evidence that these conditions prevented you from performing the duties of your office, grade, rank, or rating, the Board determined 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

10/12/2021

[Redacted Signature]

Deputy Director

[Redacted Title]