



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. 4451-21
Ref: Signature Date

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Dear Petitioner:

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 3 February 2022. 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 in 25 May 1973. Prior to enlisting, on 9 April 1973, you were found to be physically qualified to enlist as a result of an enlistment physical. On 11 October 1973, you received nonjudicial punishment for unauthorized absence and disobeying a written order. On 26 October 1973, you missed your ship's movement. On 7 May 1974, you were convicted by a summary court-martial for five instances of unauthorized absence as well as breaking restriction. On 16 December 1974, you received nonjudicial punishment for four instances of unauthorized absence. On 19 December 1974, you were notified of the initiation of administrative separation processing and your rights in connection therewith on the basis of unfitness due to frequent involvement of a discreditable nature with military authorities. On 30 December 1974, your commanding officer transmitted his recommendation that you be discharged with a general (under honorable conditions) characterization of service, and on 6 January 1975, you were so discharged.

The Board carefully considered your arguments that your narrative reason for separation should be changed to disability. In support of your petition, you contend that your current mental health conditions are related to your military service. You further state that you suffered a concussion during boot camp and that you almost drowned during training. In addition, you provided several medical records as well as letters from medical providers relating to your mental health condition.

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 may be found unfit if their disability represents a decided medical risk to the health of the member or to the welfare or safety of other members; or the member's disability imposes unreasonable requirements on the military to maintain or protect the member.

Based upon its review, the Board determined the preponderance of the evidence did not support a finding that you met any of the criteria for unfitness in order to qualify for military disability benefits. In particular, the Board found that there is an absence of health record entries contained in your active duty medical records recommending that you be referred to a physical evaluation board for any condition. The Board further observed that none of the medical documentation that you provided contained support for your contention. To the contrary, the Board noted that, among the documents you provided was a finding from what appeared to be from the U.S. Department of Veterans' Affairs (VA), which stated that "[y]our service treatment records do not contain complaints, treatment, or diagnosis for this condition. There was not continuity of symptoms from service to the present. A review of the cited evidence of record fails to show a relationship between your diagnosed schizophrenia and your military service. . . ." The Board found this VA finding to be persuasive, especially when coupled with the other factors the Board considered, as described above. Based on these factors, the Board determined that insufficient evidence exists to change your narrative reason for separation to disability.

The Board further observed that, during the period you served on active duty, you received nonjudicial punishment on two occasions and you were convicted by a summary court-martial. Based on this evidence, the Board did not discern any error or injustice in your administrative processing based on misconduct or assigned narrative reason for separation. Therefore, the Board concluded that the preponderance of the evidence supports your discharge for the good of the service based on your unfitness due to frequent involvement with military authorities. Accordingly, the Board found insufficient evidence of error or injustice to merit 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, _____

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Deputy Director

Signed by: █