



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. 4746-21
Ref: Signature Date

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Dear █,

This is in reference to your application for correction of your father's naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your father's 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 21 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 father's naval record and applicable statutes, regulations and policies.

A review of your father's record shows that he entered active duty with the Navy in November 1975. On 22 September 1977, he was admitted for treatment after suffering an acute psychotic episode. A medical board diagnosed him with Manic Depressive Illness, Manic Phase on 26 October 1977 and referred him to the Physical Evaluation Board (PEB). The PEB found him unfit for continued naval service due to his Manic Depressive Illness and assigned him a 10% disability rating resulting in his discharge from the Navy on 26 January 1978 with severance pay. On 12 June 2017, he signed a durable power of attorney to allow for financial management of his affairs. The Department of Veterans Affairs (VA) determined he was 100% disabled as of 30 September 2020. On 7 July 2021, the VA concluded he was not competent to handle disbursement of funds.

The Board carefully considered your arguments that he deserves to be placed on the disability retirement list retroactive to his discharge from the Navy with back pay. You argue that he was

discharged from the Navy for medical reasons including his mental health and seizures. Unfortunately, the Board disagreed with your rationale for relief.

In reviewing your father's record, the Board noted in his medical board report that his symptoms improved with medication during his treatment in 1977. Specifically, the medical board report states that his treated condition created "moderate interference with social adaptability and mild interference with his civilian industrial adaptability." Based on these findings, the Board determined the PEB assigned rating of 10% was supported by the medical evidence in your father's case due to the mild impairment caused by his unfitting condition. The fact that his condition worsened over the years after his discharge from the Navy did not persuade the Board an error or injustice exists in your father's record since the PEB determination is effective on the date of his discharge from active duty. Therefore, the fact he is currently 100% disabled and unable to handle his financial affairs was determined not to be probative of the issue of whether the 10% rating assigned by the PEB approximately 40 years ago was erroneous. Regarding your assertion that he was unfit due to seizures, the Board found no medical evidence to support your arguments. While the Board empathizes with his current medical condition, they felt compensation and treatment for his disability conditions fall outside the scope of the Department of Defense disability system and under the purview of the VA. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your father's record.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of 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,

10/24/2021

A large black rectangular redaction box covering the signature of the Deputy Director.

Deputy Director

Signed by:

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