



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: 4957-21
Ref: Signature Date



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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 19 January 2022. The names and votes of the panel members 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 the Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof and relevant portions of your naval record. In addition, the Board considered an Advisory Opinion (AO) provided by the Navy Department Board of Decorations and Medals (NDBDM) 125-21 dated 19 November 2021, applicable statutes, regulations, and policies.

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.

The AO from NDBDM dated 19 November 2021, reviewed your request regarding your entitlement to the Purple Heart (PH) Medal. The AO stated in part that:

... after a thorough review of the available evidence and pertinent regulations, we determined the Petitioner is not entitled to the PH. The Petitioner claim the assault constituted an act by a hostile foreign force, but he did not submit evidence to support that claim. We could find no evidence the Petitioner ever sustained a PH qualifying wound. The presumption of regularity in government affairs requires we presume that had the Petitioner 1987 injury met

the established PH criteria at the time, the award would have been made and it would have been documented in his official records.

The Board carefully considered all relevant factors to determine whether the interests of justice warrant relief in your case. These included, but were not limited to, your desire to be awarded the PH Medal, and your contentions that you were shot in the head by a [REDACTED] in a robbery attempt on active duty while traveling on a commercial bus in the [REDACTED], and that the individual who shot you was part of a "hostile force" as opposed to a common criminal.

Based upon this review, the Board concluded these factors were insufficient to warrant relief. Specifically, the Board determined that your lack of evidence to support your entitlement to the PH Medal and the AO provided by NDBDM outweighed these factors. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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,

1/26/2022

[REDACTED]

Executive Director

[REDACTED]