



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

■
Docket No. 5609-21
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 4 November 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 in June 2011. On 9 February 2012, non-judicial punishment was imposed on you for unauthorized absences, dereliction of duty, and drunk on duty. After a period of active duty without incident, non-judicial punishment was again imposed on you for dereliction of duty on 15 January 2015. Shortly afterwards, you were diagnosed with an Adjustment Disorder with depressed mood and anxiety resulting in an administrative counseling. Subsequently, you were notified of administrative separation processing based on your Adjustment Disorder diagnosis and discharged on 18 May 2015 for condition not a disability with an Honorable characterization of service. Post-discharge, the Department of Veterans Affairs (VA) rated you for Tinnitus in 2017 and Major Depressive Disorder with Anxious Distress in 2021.

The Board carefully considered your arguments that you deserve to be placed on the disability retirement list. You argue that you were misdiagnosed by the Navy in 2015 based on your VA diagnosis and rating for Major Depressive Disorder. Unfortunately, the Board disagreed with your rationale for relief.

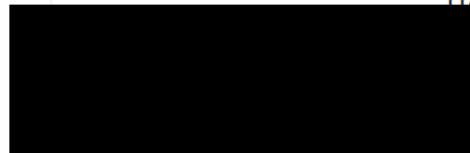
In reviewing the evidence in your case, the Board concluded the preponderance of the evidence does not support a finding that you were misdiagnosed by the Navy in 2015. The Board did not find your 2021 VA rating for Major Depressive Disorder persuasive evidence that you were misdiagnosed with an Adjustment Disorder. Specifically, the Board determined that the VA diagnosis and rating was too distant in time to be reasonably relied upon as an accurate diagnosis of your condition in 2015 since approximately six years had passed since your original diagnosis. Further, the Board determined the Adjustment Disorder diagnosis was more reliable than your 2021 diagnosis, since it was issued contemporaneously with your treatment at the time. Finally, the Board found insufficient evidence to support a finding that you were unable to perform the duties of your office, grade, rank or rating at the time of your discharge from the Navy. While the Board noted you were administratively separated based on your unwillingness to conform to military standards due to your adjustment disorder, they found no evidence that you were unable to perform your duties as a result of a qualifying disability condition. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your 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,

11/8/2021

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Deputy Director

Signed by

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