



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

█  
Docket No. 5960-21  
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.

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 February 1995. You were involved in a motor vehicle accident and suffered from a fainting incident in 2007 but otherwise served without incident during your career despite receiving treatment for a number of conditions. You requested to retire from active duty in 2019 after discovering that you would be required to return to sea. As a result, you were released from active duty on 30 June 2020 after more than 25 years of active duty service and transferred to the retired list. Post-discharge, the Department of Veterans Affairs (VA) rated you for multiple service connected disability conditions that totaled a combined 100% disability rating.

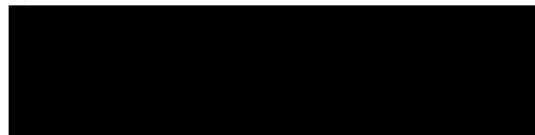
The Board carefully considered your arguments that you deserve to be placed on the disability retirement list. You argue that you did not have sufficient time to explore a disability retirement due to your retirement due to High Year Tenure. You rely on your VA ratings to substantiate your claim that you were unfit for continued naval service at the time of your retirement due to a number of disability conditions including Traumatic Brain Injury (TBI), Irritable Bowel Syndrome (IBS), and Gastroesophageal Reflux Disease (GERD). 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 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 determined the preponderance of the evidence does not support a finding that you met any of the criteria for a finding of unfitness at the time of your retirement from the Navy. In making this finding, the Board relied primarily on your fitness reports leading to your retirement which documented you were performing well above fleet standards for your paygrade in a leadership position of great responsibility. Specifically, your fitness report ending on 15 September 2019 documents that you were serving as Leading Chief Petty Officer for 47 sailors and civilians while earning a 3.86 trait average and promotion recommendation. Further, the Board noted that you were promoted to E-8 in the prior reporting period. These factors led the Board to conclude there was no evidence that you suffered from an occupational impairment sufficient to merit a finding of unfitness for continued naval service. Further, the Board considered the fact none of your medical providers felt your conditions required a referral to the Disability Evaluation System. Therefore, after weighing the evidence, the Board was unable to support a finding that you were unfit for continued naval service due to any of your VA rated disability conditions including TBI, IBS, or GERD. Accordingly, the Board found 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.

Sincerely,

11/8/2021



Deputy Director

Signed by:

