



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. 6228-21
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 18 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 August 2008. After giving birth to your daughter in 2010, you acknowledged the requirement to submit a family care plan on 6 April 2011. On 10 May 2011, you stated on your Department of the Navy Family Care Certificate that you were unable to comply with the requirements and provided a written statement explaining why. As a result, you were administratively processed for Parenthood and discharged on 13 July 2011 based on the convenience of the government with an Honorable characterization of service. Upon your discharge, you were issued a DD Form 214 that reflected your permanent paygrade of E3. Post-discharge, the Department of Veterans Affairs (VA) rated you for Generalized Anxiety Disorder effective April 2013. After receiving an initial rating of 50%, your rating was increased to 100% in 2020.

The Board carefully considered your arguments that you deserve to be placed on the disability retirement list based on your VA ratings. Additionally, you argue that you were coerced into accepting an administrative separation and never provided an opportunity to produce a family care plan. Finally, you assert that your DD Form 214 erroneously lists your paygrade as E3 despite your E-4 frocked status at the time of your discharge. Unfortunately, the Board disagreed with your rationale for relief.

MILPERSMAN 1420-060 states that frocking is "an administrative authorization to assume the title and wear the uniform of a higher pay grade without entitlement to the pay and allowances of that grade." It goes on to state that frocking "does not change the permanent status of a member." Accordingly, since

you were discharged prior to your permanent promotion to E4, the Board determined your DD Form 214 accurately reflects your "permanent status" of E3 instead of your frocked status of E4. As a result, they concluded there was no error or injustice that requires a change to your DD Form 214.

Regarding your request to be placed on the disability retirement list, the Board concluded the preponderance of the evidence does not support 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 found insufficient evidence that you met any of the criteria for unfitness. Specifically, the Board noted that your 15 Jun 2011 performance evaluation documented that you met all performance standards for frocked E4. The comments noted you contributed to "mission effectiveness by performing her duties in an accurate and proficient manner." You were further described as a Petty Officer who had "proven" yourself previously and possessed "unlimited potential to succeed." Finally, you were recommended for promotion. In the Board's opinion, this was strong evidence that you were fully capable of performing the duties of your office, grade, rank, or rating at the time of your discharge from the Navy despite any disability conditions that may have existed at that time. The Board considered your VA evidence but determined it was not probative on the issue of unfitness since eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated. Therefore, while the Board empathizes with your current medical condition, they felt compensation and treatment for your 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 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,

11/22/2021

[Redacted signature block]

Deputy Director

Signed by: [Redacted name]