



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

■  
Docket No. 6365-21  
Ref: Signature Date

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 2 December 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 November 1981. On 3 September 1986, you underwent a surgical excision of a right calf melanoma. Eventually, you were diagnosed with superficial Cutaneous Malignant Melanoma by a medical board and referred to the Physical Evaluation Board (PEB). On 7 April 1987, the PEB found you unfit for continued naval service and assigned you a 100% disability rating with a recommendation for placement on the Temporary Disability Retirement List (TDRL). You were eventually transferred to the TDRL after your release from active duty on 20 May 1987. On 25 October 1988, you underwent a periodic TDRL examination that documented your condition had improved significantly causing no occupational impairment. Based on this examination report, the PEB found you fit for active duty on 16 November 1988. After you failed to respond to inquiries on whether you intended to reenlist in the Navy, you were removed from the TDRL and discharged from the Navy on 18 July 1989.

The Board carefully considered your arguments that you deserve to be placed on the Permanent Disability Retirement List. You argue that the PEB erroneously removed you from the TDRL

since you were ineligible to reenlist based on your prior diagnosis of malignant melanoma. Unfortunately, the Board disagreed with your rationale for relief.

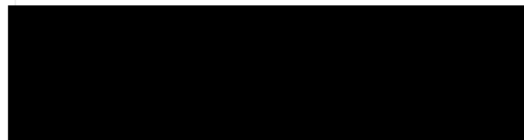
In reviewing your case, the Board concluded that the preponderance of the evidence supports the PEB findings on 16 November 1988. The Board relied on the 25 October 1988 periodic examination report that documented you were asymptomatic for your previously unfitting condition. The report noted that you were feeling well, performing regular activities, and possessed no lesions. Further, the report documented that your previous wound had healed completely. In the Board's opinion, this was strong evidence that your previously unfitting melanoma condition had healed sufficiently to allow you to return to active duty. While the Board considered your arguments regarding your inability to meet accession standards due to your medical history of melanoma, they concluded these more stringent standards did not apply to you since you were already in the Navy. Therefore, based on applicable disability regulations, the Board determined that the PEB had the authority to determine whether your condition had sufficiently progressed to return you to active duty. 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,

12/4/2021

A large black rectangular redaction box covering the signature area.

Deputy Director

Signed by: 