



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

█
Docket No. 7011-21
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 16 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.

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.

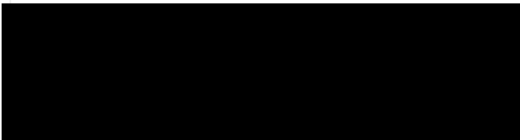
A review of your record shows that you entered active duty with the Marine Corps in July 1981. You were diagnosed with Bronchial Asthma and Allergic Rhinitis in the summer of 1982 that resulted in multiple hospitalizations over the next several years. As a result, a medical board referred you to the Physical Evaluation Board (PEB) on 24 July 1984 for Bronchial Asthma and Allergic Rhinitis. In making their referral, the medical board concluded your Allergic Rhinitis existed prior to your entry into the Marine Corps based on your preservice medical history but did not find that your Asthma condition existed prior to your entry. On 23 August 1984, the PEB found you unfit for continued naval service due to Bronchial Asthma and Allergic Rhinitis. In making their findings, the PEB concluded that both conditions existed prior to your entry into the Marine Corps. After accepting the PEB findings on 3 October 1984, you were discharged from the Marine Corps on 7 December 1984 pursuant to the findings.

The Board carefully considered your arguments your discharge from the Marine Corps erroneously states that your Asthma condition existed prior to entry. You point out that the medical board report found that your Asthma condition did not exist prior to entry contrary to your Allergic Rhinitis. Unfortunately, the Board disagreed with your rationale for relief. In reviewing the evidence in your case, the Board concluded that your discharge was supported by the evidence in your case. Specifically, the Board noted that the PEB findings in your case document that your Bronchial Asthma condition was determined to be a preexisting condition. While the Board agreed with you that the medical board determined otherwise, the Board determined that the PEB was the final adjudicator of your disability case and possessed the authority to make a finding contrary to the medical board findings. In addition, in reviewing the medical evidence in your case, found the PEB findings to be supported by the medical evidence in your case. In particular, the Board noted that you suffered from preservice allergy symptoms that could have been diagnosed as Asthma symptoms and that your symptoms surfaced relatively soon after your entry into the Marine Corps. In the Board's opinion, these factors support the PEB's determination that your Asthma condition preexisted your entry into the Marine Corps. Absent additional medical evidence that directly contravenes the findings of the PEB, the Board concluded their findings were supported by the preponderance of the medical evidence. 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,

12/17/2021



Deputy Director

Signed by: [Redacted]