



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. 7113-21
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 9 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 and served until your transfer to the Navy Reserve in October 1986. You served in the Navy Reserve without incident for the next 25 years with your last reenlistment occurring on 3 August 2010. On 1 July 2011, you were transferred to the Retired Reserve list based on your years of qualifying service. In 2016, the Department of Veterans Affairs (VA) rated you a combined 100% that remains effective as of March 2020.

The Board carefully considered your arguments that you deserve to be placed on the disability retirement list. You assert that you were forced into retirement in 2011 and would like to be medically retired in order to receive TRICARE benefits. Unfortunately, the Board disagreed with your rationale for relief.

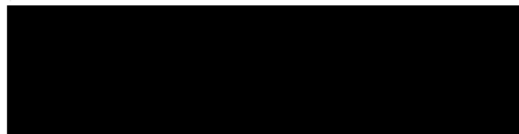
In order to qualify for military disability benefits through the Disability Evaluation System with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found 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 reviewing your record, the Board concluded the preponderance of the evidence does not support a finding that you met any of the criteria for a finding of unfitness. The Board noted that you received a 3.57 trait average and recommendation for promotion on a performance evaluation ending less than 12 months prior to your placement on the retired list. In addition, the Board noted you were medically qualified to reenlist in August 2010. Based on these factors, the Board concluded you were able to perform the duties of your office, grade, rank or rating at the time of your transfer to the retired list. Finally, while the Board considered your VA ratings, they did not find them persuasive 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. In considering your VA rating, the Board also determined it was issued too distant in time from your retirement date to be reasonably relied upon as evidence of unfitness. 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,

12/13/2021



Deputy Director

Signed by:

