



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

█
Docket No. 7216-21
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 July 1994. On 1 October 1995, you were diagnosed with Somnambulism after being observed at night by other members of your command. As a result, you were notified of administrative separation processing for condition not a disability since Somnambulism is a disqualifying condition for active duty service that is defined as a non-compensable medical condition by policy. On 9 November 1995, you were discharged with a General characterization of service for condition not a disability. This Board upgraded your characterization of service to Honorable on 11 June 2015 based on your 3.6 trait average during your active duty service. On 16 June 2021, the Department of Veterans Affairs (VA) rated you for Insomnia Disorder at 30% effective June 2020.

The Board carefully considered your arguments that you deserve a change to your narrative reason for separation to disability. You argue that you were discharged for sleepwalking but this condition was due to severe unconscious stress associated with sea duty. 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 found that the preponderance of the evidence did not support a finding that you met any of the criteria for unfitness. Specifically, the Board noted you were administratively separated for Somnambulism and were not diagnosed with Insomnia Disorder while on active duty. The Board was not persuaded by your 2020 VA rating for Insomnia Disorder since it was issued approximately 25 years after your release from active duty. The Board did not feel the VA diagnosis and rating was reliable medical evidence to conclude you suffered from the condition in 1995. Further, the Board noted that you were able to perform the duties of your office, grade, rank or rating despite your contention that you suffered from Insomnia Disorder in 1995. It was your ability to perform your duties in an exemplary manner that formed the basis for this Board's decision to upgrade your characterization of service to Honorable. Ultimately, the Board decided the Navy's decision to discharge you was based on a concern about your sleepwalking and not your inability to perform your duties due to a sleeping disorder. 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.

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



Deputy Director

Signed by:

