



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. 7392-21
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 13 January 2022. 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 Navy in April 2002. In the Spring of 2004, 2005, and 2006, you failed a series of Body Fat Composition Assessments. Despite these failures, you selected for promotion to E-4 and were frocked in 2007. However, after failing a fourth Body Fat Composition Assessment in the Spring of 2008, you were notified of administrative separation processing for Physical Fitness Assessment Failure. Eventually, you were discharged on 27 August 2008 with an Honorable characterization of service. Post-discharge, the Department of Veterans Affairs (VA) rated you for a number of service connected disability conditions resulting in a combined rating of 10% in 2009 to 90% in 2020.

The Board carefully considered your arguments to be placed on the disability retirement list. You argue that your VA rating substantiates a finding that you were unfit for continued naval

service at the time of your discharge. You also assert that your conditions have worsened since your discharge from the Navy. 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 of 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 case, the Board concluded the preponderance of the evidence does not support a finding that you met any of the criteria for unfitness. Specifically, the Board relied on your performance evaluations ending on 15 June 2007, 15 June 2008, and 27 August 2008. In each of those evaluations, your trait averages documented you were performing above fleet standards for your paygrade and rate despite your weight issues. In fact, the Board noted that your overall performance actually improved from June 2008 through your discharge date in August 2008. As a result, the Board determined there was insufficient evidence that you suffered any significant occupational impairment as a result of a disability condition and were, more likely than not, fit for continued active duty. In the Board's opinion, had you been able to maintain the weight standards you were able to obtain in 2007, you would have been fit to continue active duty despite any existing disability conditions. The Board did not find your VA ratings 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. 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

1/15/2022



Deputy Director

Signed by:

