



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

█  
Docket No. 7488-21  
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 June 1989. After suffering a seizure in March 1996, a medical board diagnosed you with Generalized Tonic Seizure and referred you to the Physical Evaluation Board (PEB). On 30 May 1996, the PEB found you unfit for continued naval service due to your Generalized Tonic Seizure condition and assigned you a disability rating of 40%. Based on the PEB findings, you were released from active duty on 21 August 1996 and transferred to the Temporary Disability Retirement List (TDRL). You underwent a periodic TDRL examination on 22 February 2001 that diagnosed you with Epilepsy but documented that you had not experienced any seizures in the past 15 months due to medication. Based on the periodic examination, the PEB found you unfit for continued naval service but reduced your disability rating to 10%. After initially requesting a formal hearing to dispute the PEB findings, you accepted the findings on 16 July 2001. You were discharged from the Navy on 1 October 2001 with severance pay pursuant to your PEB findings.

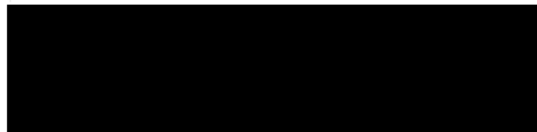
The Board carefully considered your arguments that you deserve to be placed on the Permanent Disability Retirement List (PDRL) as a matter of injustice since you were not allowed to complete your second enlistment. Unfortunately, the Board disagreed with your rationale for

relief. First, the Board found no error with the PEB findings from April 2011. Based on the results of the February 2001 periodic examination, your epilepsy was well controlled with medication as documented by your lack of seizures in the prior 15 months. Accordingly, the Board concluded the PEB findings in your case were consistent with the medical evidence in your case and supported by the preponderance of the evidence. Second, the Board concluded the preponderance of the evidence does not support placing you on the PDRL as a matter of injustice based on your inability to complete your second enlistment. The Board noted you collected five years of retirement pay from 1996 through 2001 along with severance pay upon your discharge from the Navy. In the Board's opinion, the retirement and severance pay was sufficient to eliminate any injustice that exists as a result of your involuntary discharge from the Navy. In making this finding, the Board also noted that you were processed in accordance with applicable disability regulations and provided the due process required by those regulations. 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 Department of Veterans Affairs. 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

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Deputy Director

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