



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

█  
Docket No. 7622-21  
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 the Navy Reserve in November 2006 after a period of service in the Army Reserve. You served without incident in your Navy Reserve career including two deployments in support of Operations █, first as a Yeoman and, later, as a Boatswain Mate after your security clearance was revoked in 2010. Prior to reenlisting in 2015, you were counseled on the need to obtain a security clearance to continue your Navy career. After failing to obtain a clearance, you were notified of administrative separation processing on 31 January 2016 for unsatisfactory performance and elected an administrative separation board. In the meantime, you were promoted to E-6 in February 2016 while awaiting your administrative separation board. On 25 September 2016, the administrative separation board concluded the evidence supported your separation from the Navy Reserve with an Honorable characterization of service. You were eventually discharged on 23 November 2016 pursuant to the administrative board recommendations. Post-discharge, the Department of Veterans Affairs (VA) rated you from a number of disability conditions resulting in a combined rating of 100% as of 23 April 2021.

The Board carefully considered your arguments for placement on the disability retirement list. You rely on your Gulf War service and VA ratings as substantiation that you were unfit for continued naval service at the time of your discharge from the Navy Reserve. 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 that was incurred or aggravated during a qualifying period of active duty service. Alternatively, a member may be found unfit if their qualifying 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, without deciding whether your claimed disability conditions were incurred or aggravated during a qualifying period of active duty, 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 evidence from your administrative separation board in which it was documented that you received "fantastic evaluations" leading up to your administrative separation processing and were fully capable of continuing your Navy Reserve career at that time. The Board was able to confirm that your superior performance continued until your discharge date based on your performance evaluation ending on 15 November 2016 in which you earned a 3.57 trait average and a promotion recommendation to E-7. Finally, the Board also took into consideration that you were promoted to E-6 in the same year that you were discharged from the Navy Reserve. When considered in totality, these factors convinced the Board that you were fit to continue on active duty at the time of your discharge. In the Board's opinion, had you been able to secure a security clearance, you would never had been involuntarily separated from the Navy Reserve. While the Board considered your VA ratings, they did not find them persuasive on the issue of fitness 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. Similarly, the Board was not convinced that your service in the [REDACTED] Gulf region was sufficient to overcome overwhelming evidence that you were performing your duties well above fleet standards for your paygrade and rate in the months prior to your discharge. 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,

1/15/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]