



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. 90-22
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 27 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.

A review of your record shows that you entered active duty with the Navy in September 2004. According to your performance evaluations, you served without incident until 2011 when you received a lower trait averages in your performance evaluations after failing to obtain your warfare qualifications. Subsequently, you failed your first Body Composition Assessment (BCA) in September 2011. Despite your BCA failures, you continued to perform well based on your performance evaluations in 2013. However, after failing two additional BCA's, you were administratively separated for weight control failure on 17 June 2014.

The Board carefully considered your arguments that you deserve to be placed on the disability retirement list for Crohn's Disease and Sleep Apnea. You argue that you should have been given an BCA exemption based on these conditions and processed for a disability retirement. 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 found no evidence that your claimed disability conditions created an occupational impairment sufficient to merit your referral to the Disability Evaluation System. The Board made this finding based on your performance evaluations leading up to your discharge from the Navy that documented your superior performance as a Second Class Petty Officer. Despite your issues with meeting BCA standards, you consistent received trait averages that documented you were performing at or above fleet standards for your paygrade and rate. Further, the Board found no medical basis to conclude that either of your claimed disability conditions created a danger to yourself or others while you served on active duty. As a result, the Board determined the evidence does not support a finding that you were unfit for continued naval service at the time of your discharge or eligible for placement on the disability retirement list.

Regarding your claim that you should have received a medical waiver for the BCA, the Board concluded insufficient evidence exists to support such a finding. The Board found no evidence in your application that either of the claimed disability conditions qualified for a medical waiver under the applicable instruction. Therefore, the Board determined that the preponderance of the evidence supports your administrative separation from the Navy for weight control failure. 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,

1/28/2022

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Deputy Director

Signed by:

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