



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

█
Docket No. 1054-22
Ref: Signature Date

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Dear █:

This is in reference to your application on behalf of your late husband, former Chief Petty Officer Jeffrey P. Coleman (deceased), United States Navy, for correction of his naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of Subject's 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 22 February 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 Subject's naval record and applicable statutes, regulations, and policies.

On 17 October 1984, Subject entered active duty.

In accordance with NAVADMIN 294/97 published on 16 December 1997, this NAVADMIN announced the availability of TERA for active duty USN enlisted sailors in certain ratings, rates, and years of service regardless of duty station. TERA offers early retirement at a reduced monthly payment to eligible enlisted sailors with at least 15, but less than 20 years of active service. Since it is not an entitlement, not all applications were approved. TERA offered early retirement at a reduced monthly payment to eligible enlisted sailors with at least 15, but less than 20 years of active service. Since it was not an entitlement, not all applications were approved. Years of service must have been reached by retirement date requested. This was waiver-able but in no case were waivers granted for members with less than 15 years of service. Applications for TERA retirements were accepted from 1 January 1998 to 1 April 1998. Applicants must have requested retirement dates between 31 October 1998 and 31 March 1999.

In accordance with NAVADMIN 116/98 published on 2 June 1998, this NAVADMIN confirmed closure of NAVADMIN 294/97 and provided details on how to submit special consideration applications for enlisted TERA. Processing of FY99 enlisted TERA applications received before the 1 April 1998 deadline continued. Applicants were individually notified when final determinations are made.

On 2 February 1999, Subject was placed on limited duty for a period of eight months.

In accordance with NAVADMIN 151/99 published on 24 May 1999, members with extreme situations and compelling humanitarian issues were advised to consult with their chain-of-command, command career counselor, CMC, etc., regarding the feasibility of alternatives to TERA. Members undergoing physical evaluation Board (PEB) processing were advised to consult with their benefits counselors or PERS-821...regarding their options absent the availability of TERA.

On 14 June 1999, Naval Hospital, █ issued a report of medical board that subject had long-standing posterior heel pain. Initial evaluation was performed in █ in March 1998. At that time he had had eight months of heel pain, with daily pain. It was waking him at night. He had a large, prominent posterior superior calcaneal tuberosity. He underwent excision of the calcaneal tuberosity on the right in August 1998. Two weeks after that, he had an axial load and felt a pop in the posterior aspect of the foot. This subsequently went on to heal and the area of the prominence was markedly decreased, but he had persistent pain at the insertion of the Achilles tendon. He also had significant swelling. He was unable to run. He complained of weakness and pain at the level of the insertion of the Tendo Achillis. He was unable to do toe raises. His case was discussed at length with him and with other members of the Orthopedic staff at the hospital. At that point they would have recommended surgical reattachment to the Achilles tendon, although there was no guarantee that he could have gotten back to a full duty status, even with an excellent outcome from this surgery. This was discussed at length with Subject. At that point, Subject desired nonsurgical treatment. He reported that he was unable to perform his duties, specifically ladder climbing and running. Without surgical reconstruction, it was unlikely that they would have been able to improve the symptoms. He was nearly pain-free at rest and had considered surgical intervention, but opted for nonsurgical intervention at that time. Therefore, his case was referred to the Physical Evaluation Board for adjudication. It was the opinion of the Board that the diagnosis above was correct. Subject was handicapped in that he was unable to perform the duties of his rate. It was the recommendation of the Board that Subject be referred to a Physical Evaluation Board for final adjudication.

On 21 July 1999, Findings of the Physical Evaluation Board Proceedings found Subject unfit and recommend to be separated from active duty with severance pay with a combined disability rating of 10%.

On 29 July 1999, Subject was issued Release from Active Duty and Transfer to the Disability Retired List at Home in Awaiting Orders Status/On Board Separating Activity. Subject was awaiting orders at home with a 10% disability rating.

On 19 November 1999, Subject was honorably discharged based on disability with severance pay. Subject completed 15 years, 1 month, and 3 days.

On 25 August 2021, Subject [REDACTED] died. His surviving spouse is [REDACTED].

You requested a change in status from “released from active duty” to “retired from active duty.” The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that Subject had long-standing heel pain, that he was found unfit to perform the duties of his rate, and that even with the recommended surgery, it was not guaranteed he would return to full duty status. Therefore, in June 1999, he was referred to a Physical Evaluation Board for final adjudication. In July 1999, Subject was found unfit for duty and was honorably discharged based on disability in November 1999 with a disability rating of 10%. To be eligible for retirement under TERA, Subject must have had 15 years of service prior to his requested retirement date, he was required to submit his request between 1 January 1998 and 1 April 1998, and request a retirement date between 31 October 1998 and 31 March 1999. Because March 1999 was the latest he could have retired under TERA, and because in March 1999, Subject would have only had 14 years, 5 months and 15 days of service, Subject does not qualify to apply for retirement under TERA.

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,

3/15/2022

[REDACTED]
Deputy Director

Signed by: [REDACTED]