



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

[REDACTED]
Docket No. 2102-22
Ref: Signature Date

[REDACTED]

Dear Petitioner:

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 2 June 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 enlisted in the Marine Corps and commenced a period of active duty on 22 July 1985. You served without incident and you were discharged honorably, on 22 May 2000, after your completion of required service.

In your petition, you request a medical discharge. You contend that many of the disability conditions that you are rated for now had their beginning while you were on active duty. You state that you did not seek compensation at the time because you were making a complete break from the military in all aspects and it had mentally and physically become a burden. You further state that the U.S. Department of Veterans' Affairs (VA) has rated you at 90% service connected.

The Board carefully considered your arguments, including the entirety of your petition and its enclosures, and 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 or the member or to the welfare or safety of other

members; or the member's disability imposes unreasonable requirements on the military to maintain or protect the member.

In your case, the Board observed that there were no findings that you were unfit during service, nor did you provide any evidence of potential unfitness other than your VA rating. To the contrary, the Board observed that you were discharged as a result of the completion of your active service obligation and assigned a reentry code that posed no limitations to reenlistment. In addition, to the extent you rely on the VA assigned service connected disability ratings, the Board did not find this evidence persuasive 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. As a result, the Board did not discern any error or injustice in connection with your separation from the naval service. Accordingly, the Board found insufficient evidence of error or injustice to warrant relief.

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,

6/23/2022

