



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. 2514-22
Ref: Signature Date

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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 27 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 reveals that you commenced a period of active duty on 18 March 1985. During your service, you reenlisted two times. While you were on active duty, you presented medical symptoms relating to chronic abdominal pain, irritable bowel syndrome (IBS), and mixed headaches with chronic tension with vascular component. You were referred to the Physical Evaluation Board (PEB) to determine whether these medical conditions were unfitting. On 26 August 1993, the PEB made preliminary findings that these conditions were unfitting and it assessed your chronic abdominal pain and mixed headaches with a 10% rating for each, totaling a 20% rating. The preliminary findings of the PEB combined your IBS with your chronic abdominal pain condition. On 27 August 1993, you accepted the preliminary findings of the PEB. On 3 September 1993, the PEB issued a Notification of Decision approving the preliminary findings that you were unfit based on these medical conditions with a combined 20% disability rating and recommended that you be discharged with severance pay, but without further disability benefits. On 4 October 1993, you were discharged per the PEB's recommendation. The Department of Veterans Affairs (VA) diagnosed you with Gastroesophageal Reflux Disease/IBS and assigned you a 40% disability rating effective 5 October 1993.

In your petition, you requested to be placed on the disability retirement list. In support of your request, you contend that, after your service, you were awarded a 50% service connected disability through the VA, of which 40% was for your IBS.

The Board carefully considered your petition and assertions contained therein and disagreed with your rationale for relief. In reaching its decision, the Board applied a presumption of regularity to the findings of the PEB, reasoning that the PEB made its decision based on an analysis of your symptoms and relevant factors during the contemporaneous time frame. Thus, the Board determined that a disability finding by the VA, after your service, based on different standards, did not demonstrate that there was an error in the findings of the PEB. Therefore, absent additional evidence that the PEB assigned ratings were erroneous, the Board was not persuaded that an error exists with its findings. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit 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,

7/15/2022

