



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

■  
Docket No. 3653-22  
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 22 August 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 Navy and commenced a period of active duty on 27 May 1986. On 16 January 2001, an informal Physical Evaluation Board (PEB) found you fit for continued active duty for referred conditions. On 14 February 2001, an Informal PEB reconsidered the unfit determination, finding you unfit with a disability rating of 0% for Idiopathic Hypersomnolence verses Narcolepsy. A second referred condition of Upper Airway Resistance Syndrome was determined to be neither separately unfitting nor contributing to the unfitting condition as it had been unsuccessfully treated using CPAP. On 1 March 2001, you accepted the findings of the Informal PEB. On 23 March 2001, you were discharged honorably on the basis of physical disability.

In 2019, you filed a petition with this Board, which itself was a request for reconsideration of a prior petition that you filed with this board, in which you sought a medical retirement. On 7 April 2020, this Board denied your request. In its letter to you denying your request, the Board explained that it had obtained an advisory opinion of a medical professional to assist it in reaching its decision, and with which it concurred. The Board agreed with the recommendations of the advisory opinion, and again found that you did not establish that you had a qualifying

condition or disability at the time of your naval service that merited a rating which would result in a medical retirement rather than a disability discharge with severance pay.

In your current petition, you seek the award of a disability retirement based on a finding by the U.S. Department of Veterans Affairs (VA) that you have service connected post-traumatic stress disorder (PTSD). In support of your request, you provided a VA finding dated 18 July 2019. You contend that when you were medically discharged with severance pay from the Navy and, after you transitioned to the VA, you were made to repay your severance pay. You further contend that the Navy should be held liable for your PTSD and that you should receive benefits in addition to your VA benefits.

In review of the entirety of your naval service record, and your petition and its enclosures, the Board disagreed with your rationale for relief. In considering your current petition, the Board noted that there was no referral for PTSD to the PEB, which reviewed your conditions while you were on active duty. To the contrary, the materials you provided demonstrate that your PTSD condition manifested after your separation from service.

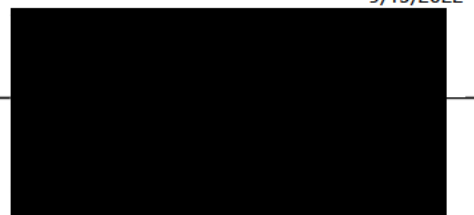
The findings from the VA that you provided were from approximately 18 years after your separation. Such findings from the VA for service connected disability conditions do not necessarily demonstrate that these conditions would be unfitting at the time of your discharge from the Navy because eligibility 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.

In your case, the relevant time period for determining your unfitness based on PTSD was when you were on active duty. During that time frame, the PEB found you unfit for the aforementioned disability conditions, but not PTSD, and you were appropriately separated with severance pay. The Board determined that you did not provide evidence sufficient for the Board to find that the PEB was in error when it made its findings. As a result, the Board concluded that there was no error or injustice relating to the findings of your fitness and your discharge. 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,

9/15/2022

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