



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

█  
Docket No. 3676-22  
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.

A three-member panel of the Board, sitting in executive session, considered your application on 19 September 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 9 June 2010. On 28 August 2020, you were transferred to the temporary disability retired list (TDRL). Thereafter, you applied for combat related special compensation (CRSC). On 31 March 2022, the Department of the Navy, Council of Review Boards (CORB), denied your claim for CRSC, as follows:

Your application package does not establish that specific combat-related events caused your diagnosis. The fact that the VA established your diagnoses as service connected means they were incurred during your military career; not that they are combat-related. VA is not chartered nor authorized to make combat-related determinations. Your application package does not establish that specific combat-related events caused your diagnosis/diagnoses.

In your petition, you seek review of the decision of the CORB and contend that your PEB combat-related findings were improperly coded and you should have received CRSC. You state that you have multiple documents listed in your military record about your post-traumatic stress disorder (PTSD) condition and what happened while on board your ship. You further assert that

the Department of Veterans' Affairs (VA) acknowledged that your PTSD claim was in fact combat-related. You explain that you were a witness to a shooting suicide event while on board your ship and you have yet to recover from this horrific event in your life.

The Board carefully considered your arguments that you are deserving of CRSC on account of the PTSD that resulted from the event you described. The Board, however, disagreed with your rationale for relief. Section 1413a of Title 10, United States Code, provides the statutory authority for payment of CRSC. Based on procedures and criteria prescribed by the Secretary of Defense, it allows for payment of CRSC for combat-related disabilities incurred as a direct result of armed conflict, while engaged in hazardous service, in the performance of duty under conditions simulating war, or through an instrumentality of war. In addition, CRSC may be awarded if a disability is attributable to an injury for which a Purple Heart was awarded. The Office of the Under Secretary of Defense issued a Directive Type Memorandum on 27 April 2004 that provided guidance on CRSC. Additionally, Department of Defense Regulation 7000.14-R (Financial Management Regulation) also addresses CRSC by stating "Determinations of whether a disability is combat-related for CRSC will be based on the preponderance of available documentary information where quality of information is more important than quantity. All relevant documentary information is to be weighed in relation to known facts and circumstances, and determinations will be made on the basis of credible, objective documentary information in the records as distinguished from personal opinion, speculation, or conjecture."

In your case, the Board concurred with the finding of the CORB that your application package did not establish that specific combat-related events caused your diagnosis/diagnoses. In particular, in light of the guidance described above, did not find that you suffered injury as a direct result of armed conflict, while engaged in hazardous service, in the performance of duty under conditions simulating war, or through an instrumentality of war. In making this finding, the Board concurred with the CRSC Board determination that the VA does not have authority to make combat-related determinations and their findings related to the issue are not binding on the Department of the Navy. Based on these findings, the Board determined that the preponderance of the evidence supports the CORB's decision in your case. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your record.

Regarding your request to change your PEB combat-related findings or coding, a review of your record determined that you did not exhaust your administrative remedies prior to applying to this Board. A determination by the PEB that a disability did not result from a combat-related injury may be appealed to the Navy Judge Advocate General (JAG). The appeal shall be by letter addressed to the Judge Advocate General of the Navy (Code 131), Washington Navy Yard, 1322 Patterson Ave SE, Suite 3000, Washington, DC 20374-5066 and shall set forth the reasons the member disagrees with the determination of the PEB. Since you have not yet exhausted your administrative remedies with regard to the PEB combat-related findings, the Board determined this issue was not yet ripe for consideration. Once you have exhausted your administrative remedies, you may reapply to this Board with supporting evidence that an error or injustice exists in your military 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,

10/5/2022



Executive Director

