



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. 4219-22
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 28 November 2022. The names and votes of the panel members 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.

The Board determined that a personal appearance with or without counsel would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

A review of your record shows that you enlisted in the Navy and commenced a period of active duty in March 1975. On 4 November 1991, you were reviewed by a Medical Evaluation Board (MEB) for evaluation of a medical condition, and the MEB recommended that you be reviewed by a Physical Evaluation Board (PEB). The PEB found you unfit for continued naval service and, on 7 August 1992, you were transferred to the temporary disability retired list (TDRL). On 1 June 1994, you were transferred to the permanent disability retired list (PDRL) with a 70% disability rating. You provided information that you had initially received a 70% disability rating from the U.S. Department of Veterans' Affairs (VA), which has increased over time, such that, effective 4 December 2020, it is 100%.

In your petition, you requested that you be provided constructive service credit added to your years of service to enable you to meet the requirement of a 20-year retirement so that you can

receive Concurrent Retirement and Disability Pay (CRDP). In support of your request, you argue that it is unjust that you are unable to receive CRDP. You further asserted that your service in the Navy was exemplary and you received the National Defense Service Medal and four Good Conduct Medals. In addition, you explained that you had recently suffered unforeseen financial difficulties when you lost your teaching job during the Covid pandemic and you recently lost your wife of 36 years. You provided documents in support of your petition, including materials from the VA as well as letters of reference.

The Board carefully reviewed all of your contentions and the material that you submitted in support of your petition, and the Board disagreed with your rationale for relief. In reaching its decision, the Board observed that there was no error in your naval records. In addition, the Board did not observe any injustice in your processing through the Disability Evaluation System and your subsequent placement on the PDRL. While the Board empathized with your recent personal losses, in view of all of the entirety of your petition, including its attachments, and all relevant materials, the Board found there was no basis to provide you constructive service such that you may obtain a 20-year retirement and the benefit of CRDP. Accordingly, in light of the foregoing, the Board denied your petition.

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,

12/19/2022

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Executive Director

Signed by: █