



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. 4591-22
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 3 October 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.

The Board determined that your 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 on 28 May 1985. You were evaluated by a medical professional on 11 June 1985, and it was determined that you had back pain, which existed prior to your entry (EPTE) into the Navy. You were then evaluated by a medical evaluation board (MEB), on 25 June 1985, which found that you had mechanical low back pain, EPTE, as follows:

- (1) The diagnosis is MECHANICAL LOW BACK PAIN, EPTE;
- (2) The member has appeared before a medical board and the board finds that he does not meet the minimum standards for enlistment or induction and that he did not meet those standards, as set forth in MANMED (15-27), at the time of his entry into the current period of active service;
- (3) The member has no unfitting physical disability incurred in or aggravated by active military service, either the current

period or any prior period; (4) The medical board finds the member's present condition to be 'not physically qualified' in accordance with the physical standards for enlistment or induction as opposed to physical unfitness by reason of physical disability; (5) The indicated disposition of the medical board is that the member be discharged by reason of 'enlisted in error'; (6) The convening authority of the medical board concurs with the board's findings and recommendation; (7) The member is not considered to be unfit by reason of physical disability as that phrase is defined in Appendix A of SECNAVINST 1850.4 (Disability Evaluation Manual).

As noted above, the MEB recommended that you be discharged by reason of enlisted in error, i.e., failure to meet enlistment physical standards. In accordance with the recommendation of the MEB, you were discharged on 28 June 1985.

In your petition, you seek to have your reason for separation changed to physical disability. In support of your request, you contend that your preexisting condition was aggravated by naval service.

The Board carefully reviewed all of your contentions and the material that you submitted in support of your petition, including the medical documentation that you provided, and the Board disagreed with your rationale for relief. In reviewing your record, the Board observed that the MEB that evaluated you made specific findings that you did not meet the minimum standards for enlistment, that you had no unfitting conditions that were incurred or aggravated on active duty, and that you were not considered to be unfit as that term was used in the disability evaluation instruction. In review of your personal statement and attachments you provided with your petition, the Board did not find these sufficiently compelling to reverse the decision of the MEB that you attended contemporaneous to your service and discharge from service. Accordingly, in view of the foregoing, the Board observed no error or injustice in your naval record and 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,

10/17/2022

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Executive Director
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