



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. 5147-22
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 23 February 2023. 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 27 July 1965. On 20 June 1969, you were released within three months of the expiration of your enlistment contract and transferred to the Navy Reserve with a General (Under Honorable Conditions) (GEN) characterization of service. On 12 November 1971, you completed your reserve obligation and were released with a GEN characterization and not recommended for reenlistment.

In March 2012, you submitted an application with the Naval Discharge Review Board (NDRB) seeking an upgrade to your discharge characterization. On 8 March 2013, the NDRB denied your request citing medical records that reflected your dissatisfaction with the Navy prior to

leaving your command without authority and missing ship's movement. According to the NDRB, there was no record or evidence that you were not responsible for your actions or should not be held accountable.

In your petition, you request that you receive a disability discharge. In support of your request, you contend that you were exposed to radiation while you served on a ship in the Navy and it caused brain problems.

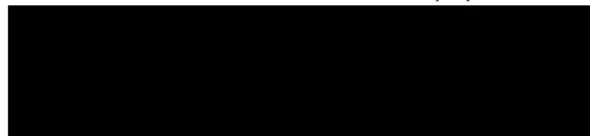
The Board carefully reviewed all of your contentions and the material that you submitted in support of your petition, and the Board disagreed with your rationale for relief. In reaching its decision, the Board observed that, in order to qualify for military disability benefits through the Disability Evaluation System with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting.

In reviewing your record, the Board concluded the preponderance of the evidence does not support a finding that you met the criteria for unfitness as defined within the disability evaluation system at the time of your discharge. In reaching its decision, the Board observed that there is no evidence in your service record, and you provided none, describing that you had any unfitting condition while on active duty. Similarly, your record does not contain any records of a medical evaluation board referring you to the Physical Evaluation Board. Finally, the Board observed that you completed your active duty service and you transferred to the Navy Reserve, which is inconsistent with exhibiting an unfitting condition during your service. 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,

3/10/2023

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Executive Director

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