



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. 5240-22
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 5 December 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 Marine Corps and commenced active duty on 7 July 2014. You were placed into the Integrated Disability Evaluation System (IDES) for evaluation with respect to a medical condition. In connection with the IDES process, on 3 December 2018, your command provided a non-medical assessment (NMA), stating that:

[You are] a knowledgeable and technically proficient Marine with a desire to be a force multiplier in his work center. He is unable to complete tasks assigned during normal business hours due to his inability to wear safety boots which are required to perform his job. His contributions to the unit are minimal at best and at most times a zero due to his current medical conditions. His limitations include no heavy lifting and no combat/physical fitness training/tests; both are required to advance in his MOS skills and maintain promotion and retention standards. He is not able to fulfill any of his daily duties due to not being allowed on elevated platforms. He can't wear a working uniform in his current medical condition, and is not medically qualified to be deployed.

On 2 April 2019, as part of the IDES process, the U.S. Department of Veterans Affairs (VA) issued its determination, recommending a variety of service connected findings, which totaled 100%. The VA does not make findings with respect to service members' fitness for duty, thus, on 5 May 2019, an Information Physical Evaluation Board (IPEB) made its determination as to which of your conditions were considered unfitting. According to the IPEB, you were unfit due to Peripheral Artery Disease, Left and Right Lower Extremities, at 60% for each extremity, as follows:

The member has a diagnosis of recurrent thrombosis based on medical documentation. The service member's treatments have consisted of medication that has not resolved the symptoms sufficiently such that the member will not be able to perform the duties of his rating. This assessment is supported by command and medical evidence within the case file. This condition is considered unstable because the etiology of his condition is still under investigation and his treatment options may change the course of his disease.

Based on the findings of the IPEB, you were transferred to the temporary disability retired list (TDRL). On 24 March 2021, you underwent a period physical exam (PPE) by the PEB, which found that your conditions had stabilized and your unfitting conditions were rated at 0%. According to the PPE, “[b]ased on the medical evidence available in the TDRL exam, the rating percentage has been appropriately adjusted to 0% consistent with 38 CFR 4.104 and 4.96.” The PPE recommended that you be discharged with severance pay.

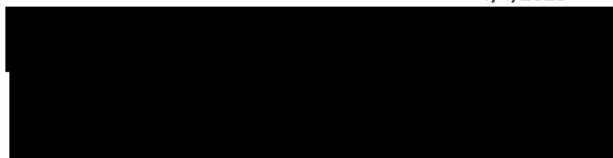
In your petition, you request that the Marine Corps re-open your case for medical retirement. In support of your request, you assert that you feel you were wrongfully deceived in the medical process, and when the Navy Hospital did their review board, you felt the medical review was overlooked and they purposely sped up the process to get it over with. You further assert that the Navy made you believe you would be keeping all of your retirement benefits.

The Board carefully reviewed your petition and the material that you provided in support of your petition and it disagreed with your rationale for relief. In reaching its decision, the Board did not observe any evidence that you were wrongfully deceived during your evaluation within the IDES process. To the contrary, the Board observed that you were appropriately evaluated by professionals at both the VA and the PEB, and that they made recommendations that were supported by medical evidence. Thereafter, you were appropriately evaluated during a PPE and subsequently separated with severance pay.

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,

1/4/2023

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Deputy Director

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