



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. 6297-22
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 15 March 2023. 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 the 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.

You previously applied to this Board and the Board denied your request on 25 September 2008. You contended that you were scheduled for a Physical Evaluation Board (PEB) but were forced off active duty before the PEB could be convened. You expressed that you were prematurely released from active duty and you were not afforded certain payments and not provided due process for a disability hearing at its earliest time while on active duty.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case. These included, but were not limited to your request for a new Certificate of Release or Discharge from Active Duty (DD Form 214)¹ to reflect disability to ensure any potential benefits you may be qualified for when a DD Form 214 may be the only proof of record. You also request that your DD Form 214 reflect the corrections that are made on your DD Form 215. You express that combining your current DD Form 214 and 215 would correct a misspelling and you would have a clean DD Form 214 instead of having to

¹ The DD Form 214, Certificate of Release or Discharge from Active Duty is a document of the United States Department of Defense, issued upon a military service member's retirement, separation, or discharge from *active duty* in the Armed Forces of the United States

produce both. The Board noted you provided the PEB findings, the notification of Permanent Disability Retired List and your DD Form 214 and 215.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that prior to your discharge from *active duty* you were found fit to separate. The Board further determined that if you disagreed with the case management at the time of your release, you had the right to appeal to the Office of the Judge Advocate General (Code 13) and there is no documentation provided to the Board that you exercised those rights. The Board further determined that the disability determination happened after the issuance of your DD Form 214 and you were properly separated at the completion of your required active service. Finally, the Board understands that it may be an inconvenience for you to produce both your DD Form 214 and 215, but it is within regulations for a Sailor to have both. While the Board carefully considered the evidence you submitted and justification, the Board did not find evidence of an error or injustice that warrants granting you the relief requested.

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, _____

3/29/2023

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Deputy Director

Signed by: █