



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. 6570-22
Ref: Signature Date

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Dear █

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 20 April 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. In addition, the Board considered the 7 March 2023 Advisory Opinion (AO) from the Director, Secretary of the Navy Council of Review Boards. Although you were provided an opportunity to respond to the AO, you chose not to do so.

A review of your record revealed that you entered active duty naval service on 5 March 2007. On 11 January 2018, you were injured as a result of a faulty valve that exploded. On 19 April 2021, the Physical Evaluation Board (PEB) found you unfit for continued naval service due to Vision Loss in the left eye with a rating of 40% and recommended your placement on the Permanent Disability Retired List (PDRL). On 28 July 2021, you were transferred to the PDRL pursuant to the PEB findings.

In September 2021, you applied for Combat Related Special Compensation (CRSC) for the conditions of vision loss, cervical degenerative disc disease (DDD) with Intervertebral Disc Syndrome (IDVS), Left and Right Upper Extremity Tremors, and Left and Right Trapezium Muscle Spasms. On 10 May 2022, the CRSC Board decided that the vision loss was combat related on the basis of instrumentality of war, but denied your other conditions.

You argue in your petition that the DDD with IVDS injury was also due to the 11 January 2018 incident that caused your unfitting left eye vision loss. As evidence, you included with your

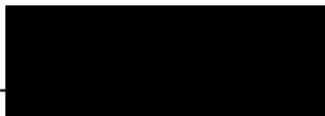
petition a medical record, dated 8 July 2022, from a Department of Veterans Affairs (VA) stating that you suffered from whiplash due to the 2018 incident, which resulted in neck pain. You claim that you were treated for your neck injury in service and that the pain got progressively worse until discharge.

The Board carefully reviewed your petition and the material that you provided in support of your petition and disagreed with your rationale for relief. In making their finding, the Board concurred with the AO that there is no evidence from, at, or near the time of the incident to support your claim that you injured your neck at that time. Moreover, the Board also concurred with the CRSC Board's 10 May 2022 decision, which noted that instrumentality of war combat-related determinations require a direct causal relationship between the instrumentality and the disability. Other than your personal statement to your physician which is documented in a medical record issued four years after the mishap, there is no other evidence that your diagnosis resulted from the mishap. Consequently, the Board concluded that your statement and VA medical record were insufficient to support a combat related determination for CRSC. 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,

5/11/2023

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Deputy Director

Signed by: 