



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. 6980-22
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 13 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.

A review of your record shows that you enlisted in the Navy and commenced a period of active duty on 7 April 1983. Your record contains the report of a 6 August 1985 medical board, which describes that you were in a motorcycle accident on 29 May 1985. The medical record describes the accident and injuries you sustained, including to your leg. The medical record also describes that you would be able to return to full duty after one year of limited duty. On 30 January 1986, a medical board reviewed your condition and found that based on your current condition you should be reviewed by the Physical Evaluation Board (PEB). As a result of the findings of the PEB, on 17 September 1986, you were transferred to the temporary disability retired list (TDRL). As a member of the TDRL, you underwent periodic physical examinations, and, on 18 May 1988, the Central Physical Evaluation Board (CPEB) determined that you should be separated from the TDRL with a 20% disability finding, and you were so separated.

In your petition, you request this Board transfer you from the TDRL to the permanent disability retired list. In support of your request, you assert that you had your right lower leg removed as a result of the injury you incurred while on active duty. You provided a copy of a finding by the

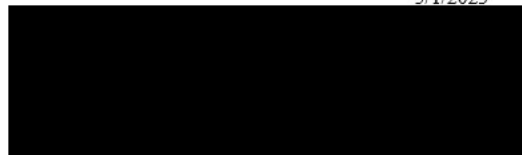
Department of Veterans Affairs (VA), which found that the injury you incurred while in the Navy was in the line of duty.

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. Upon review of the materials, the Board determined that there was insufficient evidence demonstrating that the findings of the CPEB in 1988 were in error or were otherwise unjust. Notably, the Board observed that you did not provide any new documentation that demonstrated that the CPEB was in error, such as medical documentation contemporaneous to your service. The Board further observed that findings by the VA that your injuries were in the line of duty was not persuasive. Whether your injuries occurred in the line of duty or due to your misconduct does not appear to have been at issue in light of the fact that you were in fact placed on the TDRL, regularly reviewed by periodic physical evaluations, and reviewed by the CPEB, which recommended your separation with a 20% disability finding. Accordingly, in light of the foregoing, the Board 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,

5/1/2023

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Deputy Director

Signed by: 