



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. 3656-23

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 16 October 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 this Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your service record, and applicable statutes, regulations, and policies, to include the Navy and Marine Corps Awards Manual and MARADMIN 245/11, Purple Heart Medal Revised Criteria for Mild Traumatic Brain Injury and Updated Coordinating Instructions. The Board also considered an advisory opinion (AO) from Commandant of the Marine Corps, Military Awards Branch (MMMA-2). Although you were offered the opportunity to reply to the AO, you chose not to do so.

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.

From August 2011 through June 2012, you were deployed to Afghanistan in support of Operation Enduring Freedom (OEF), assigned to Civil Military Operations █ Marine Expeditionary Force (Forward) as the Operational Planning Officer. On 28 April 2012, you suffered a minor Traumatic Brain Injury (mTBI)/concussion after your convoy was targeted by an Improvised Explosive Device (IED) in █.

In your petition, you request award of the Purple Heart medal for the injuries that you sustained during the explosion, specifically, the mTBI/concussion and related symptoms such as headache, dizziness, vomiting, and nausea. You explain that it was several hours after the blast before a Military Acute Concussion Evaluation (MACE) was performed due to the fact that there was only one Corpsman assigned to the convoy (who was injured himself) and no other medical personnel available to assist with injured Marines injuries. You further explain that upon return to █, there was significant disorganization on the part of the command “due to the ad hoc nature of personnel on this operation.” Specifically, no follow-on medical care was provided outside of those with visible injuries, despite some Marines exhibiting signs of post-blast trauma. You assert that as a result, no Personnel Casualty Reports were generated for any of the individuals that suffered from blast exposure but no external injuries. As you were involved in generating the after action reports, you were unable to pursue any medical care immediately following the incident.

As part of the Board review process, the Military Awards Branch (MMMA-2), reviewed your contentions and the available records and issued an advisory opinion (AO) dated 21 July 2023. The AO recommended against awarding you the Purple Heart. Specifically, the AO concluded that there is insufficient medical documentation that a medical officer made a disposition of “not fit for full duty” for a period greater than 48 hours within 7 days of the injury based on persistent signs, symptoms, and findings of functional impairment from a diagnosed mild traumatic brain injury/concussion as required by MARADMIN 245/11 (dated 15 April 2011). The AO also noted their previous denials on your request on 16 December 2019 and 10 March 2021, citing the same lack of evidence.

After careful review and consideration of all of the evidence of record, the Board determined that relief is not warranted. In making this determination, the Board concurred with the advisory opinion that there was insufficient evidence that you met the requirements of the governing regulation. The Board considered your contentions and supporting information regarding why you were not immediately examined by a medical officer and therefore not deemed unfit for duty. However, the Board felt that although there is medical evidence of lingering mTBI/concussion symptoms, such symptoms did not rise to the level of a “not fit for duty” determination. The Board recognized the aftermath of such a traumatic event, however, due to the lack of information contained within the service medical record, the Board deferred to the judgment of the original approval authorities. 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,

10/19/2023

