



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. 4118-23
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 21 September 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, applicable statutes, regulations, and policies.

A review of your record shows that you enlisted in the Navy and entered active duty on 1 August 1968. On 8 September 1970, you accepted non-judicial punishment (NJP) for violating the Uniform Code of Military Justice (UCMJ) Article 116 (Drinking while on shore patrol). On 27 July 1971, you received your second NJP for violating Article 86 (Unauthorized Absence (UA)) of the UCMJ for being UA from 9 to 15 September 1971 and missing ship's movement. You subsequently had three more instances of UA from 3 August 1972 to 26 August 1972, 1 September to 30 October 1972, and 21 November 1972 until 9 October 1973, when you were subsequently placed in confinement. Charges were referred to a general court martial, but were ultimately dismissed on 7 March 1974 due to a speedy trial violation. You were discharged from the Navy, on 15 March 1974, with an Honorable characterization of service.

You petitioned the Board, arguing you contracted Hepatitis while performing duty as a corpsman and should receive a disability retirement. In addition, you request back pay of five months and 28 days.

The Board carefully reviewed your petition and the material that you provided in support of your petition, and disagreed with your rationale for relief. The Board found you provided no evidence

to substantiate your contentions of contracting Hepatitis and being hospitalized or that you did not receive pay. The Board noted that you separated from the Navy not due to a medical condition but because you were held beyond your expiration of active obligated service (EAOS) for misconduct. Based on your record, the Board concluded your discharge was proper, there was no injustice regarding your separation or pay. In making this finding, the Board relied on the presumption of regularity. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. 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,

10/16/2023

