



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

█
Docket No. 5112-23
Ref: Signature Date

█
█
█

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.

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 and applicable statutes, regulations, and policies.

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.

On 4 March 2011, COMNAVPERSCOM notified █ that the Secretary of the Navy has directed your permanent disability retirement with disability at 60 percent. Release from active duty 27 April 2011, retirement effective 28 April 2011. Noting that "Subject member is competent. Disability has been determined to be not combat related."

On 14 March 2011, authorizing official signed your Separation Travel Orders (NAVPERS 1900/2) listing the reason for separation as Permanent Disability Retired List (PDRL), detached/effective date of separation of 27 April 2011, Honorable character of service, Separation Program Designator (SPD) code: SFJ, and Separation Authority/reference MILPERSMAN 1850-030. The place you elected for travel entitlements was █
█

You were discharged with an honorable character of service and were issued a DD Form 214, Certificate of Release or Discharge from Active Duty for the period of 28 October 1999 to 27 April 2011 due to Disability, Permanent.

In accordance with 10 U.S.C. Section 1414, (a) Payment of Both Retired Pay and Compensation. (1) In general. Subject to subsection (b), a member or former member of the uniformed services who is entitled for any month to retired pay and who is also entitled for that month to veterans' disability compensation for a qualifying service-connected disability (hereinafter in this section referred to as a "qualified retiree") is entitled to be paid both for that month without regard to sections 5304 and 5305 of title 38.

(b) Special Rules for Chapter 61 Disability Retirees. Disability retirees with less than 20 years of service. Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title, or with less than 20 years of service computed under section 12732 of this title, at the time of the member's retirement.

Defense Finance and Accounting Service HUNT system shows your service entry date of 30 September 1999, your retirement date of 27 April 2011, and Pay Entry Base Date of 28 October 1999. Your service base pay and service percent multiplier is 11 years, and 6 months. Furthermore, you VA Disability Percent is 100%.

You requested that your military retirement pay for PDRL resume, the Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that you were transferred to the PDRL on 27 April 2011 due to Disability, Permanent, with a 60% disability rating by the VA. At the time of transfer, you were credited with 11 years and 6 months of active service. In accordance with the HUNT System, you are currently rated 100% disabled by the VA. Because you were retired due to disability prior to completing 20 years of active service, you are not entitled to receive both your retired pay and disability compensation from the VA.

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,

9/26/2023

