



**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. 5187-23  
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 28 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.

A review of your record shows that you enlisted in the Navy and commenced a period of active duty on 11 February 1976. On 2 June 1980, the Physical Review Council (PRC) found you to be unfit at 50% and determined that you should be placed on the Temporary Disability Retired List (TDRL). On 13 June 1980, you were transferred to the TDRL. On 1 November 1985, the Central Physical Evaluation Board (CPEB) found you to be unfit at 20%. On 15 January 1986, the Physical Evaluation Board (PEB) found you to be unfit at 50%. Upon further review, on 7 February 1986, the PRC found you to be unfit at 20%. As a result of the finding of a 20% unfitting condition, you were separated from the TDRL with severance pay.

In your petition, you did not articulate a specific request for relief. Thus, the Board treated your petition as a request to receive a disability retirement based on your assertion that your discharge from the TDRL was erroneous. In support of your petition, you asserted that the Physical Review Council's decision on your disability was obtained through fraud and that you were denied due process.

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. The Board determined the presumption of regularity applies in your case. 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. In reaching its decision, the Board observed no evidence in your service record, and you provided none, demonstrating that the several levels of medical review that you underwent while you were on the TDRL were in error. In addition, the Board observed that, other than your assertions, you did not provide any evidence of error or injustice in the adjudication of your disability while you were on the TDRL. 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,

