



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. 5976-23
Ref: Signature Date

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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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your applications on 14 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 applications, 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.

A review of your record shows that you enlisted in the Navy and entered active duty on 28 January 2008. Upon completion of initial training, on 19 June 2008, you transferred to the Naval Reserve. On 18 October 2009, you received a physical readiness test (PRT) waiver until January 2010 due to injuring your neck and back in a motor vehicle accident. On 29 June 2010, Commanding Officer (CO) █ recommended to Navy Personnel Command to process you for administrative separation due to unsatisfactory participation in the Ready Reserve, noting that you had 10 unexcused drill periods in the last eight months. You were discharged on 6 July 2010 with a General (Under Honorable Conditions) characterization of service.

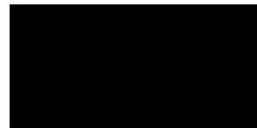
You request a medical discharge and an upgrade of your characterization of service from General (Under Honorable Conditions) to Honorable. You contend after you were injured in the motor vehicle accident you were given a three month PRT waiver; however, the CO disapproved the second waiver and you were administratively separated for unsatisfactory performance. In support of your petition, you provided medical documents and a rating from the U.S. Department of Veterans Affairs (VA).

The Board carefully reviewed your petition and the material that you provided in support of your petition and it disagreed with your rationale for relief. In reaching its decision, the Board noted for members of the Navy Reserve to be eligible for a disability retirement, their injuries or medical conditions would have to be determined to have been sustained or exacerbated while in a duty status via a Line of Duty Benefits (LOD-B) determination. If a Reserve Member is granted a LOD-B, then the member can enter the Disability Evaluation System (DES). The IDDES process determines if the medical condition prevents the member from continued service and warrants a disability discharge. The Board concluded, based on the evidence, you were not injured on duty and would not have qualified for a LOD-B. Consequently, no error or injustice occurred warranting a disability discharge as you were not eligible for processing through the DES. In addition, the Board noted that you were processed for administrative separation due to unsatisfactory participation in the Ready Reserve and, based on your unexcused absences, you were appropriately assigned a General (Under Honorable Conditions) characterization. In making this finding, the Board found that significant negative aspects of your service outweighed the positive aspects. 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,

10/11/2023

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Executive Director

Signed by:

A black rectangular redaction box covering the name of the Executive Director.