



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. 6488-23
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 19 October 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 13 April 2010. On 1 July 2010, you were discharged due to a disqualifying medical condition that existed prior to entry and assigned an uncharacterized entry-level separation. In 2011, you filed a petition with this Board seeking similar relief. By letter dated 1 March 2012, this Board denied your petition, noting “that in order for a service member to be separated or retired by reason of physical disability due to a condition that existed prior to his enlistment, there must be evidence of ‘service aggravation,’ i.e., an increase in the severity of the condition that is beyond the normal progression of the disease. As you have not demonstrated that your condition was aggravated by your 2 months and 19 days of naval service, the Board was unable to recommend favorable action on your request.”

In your current petition for reconsideration, you request that your characterization of service be changed to honorable and your narrative reason for discharge be changed to medical. In support of your request, you contend that the Department of Veterans Affairs (VA) considers your discharge to be honorable, and that your Certificate of Discharge or Release from Active Duty (DD Form 214) should be changed because it does not reflect your actual discharge. You also state that your current narrative reason for discharge misleads employers.

The Board interpreted your request to change your narrative reason for discharge to “medical” as a request for a medical disability retirement or separation. In carefully reviewing all of your contentions and the material that you submitted in support of your petition, the Board observed that, in order to qualify for military disability benefits through the Disability Evaluation System with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; the member’s disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting.

In reviewing your record, the Board concluded the preponderance of the evidence does not support a finding that you met the criteria for unfitness as defined within the Disability Evaluation System at the time of your discharge. At the outset, the Board observed that you did not provide any evidence contemporaneous to your service that tended to demonstrate that the medical findings that were made while you were on active duty were in error. In light of the foregoing standard applicable to the disability evaluation system, the Board did not discern any facts that would support you being eligible for a disability retirement. Rather, the evidence of record demonstrates that you were discharged for a medical concern that resulted in contemporaneous medical findings that you did not meet physical standards for enlistment and you were appropriately assigned an uncharacterized entry-level separation due to an erroneous enlistment.

With respect to changing your characterization of service to honorable on your DD Form 214 as well as the material you provided from the VA in support of your petition, the Board observed that the VA does not make determinations as to characterizations of service on behalf of the Department of the Navy. The VA makes its own findings relating to eligibility of Veterans for benefits. In addition, the VA does not make fitness for service determinations as contemplated within the service disability evaluation system. Rather, eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated. Accordingly, in light of all of the foregoing, the Board denied your petition for 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,

11/7/2023

