



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. 6711-23
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 limitation and consider your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 24 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.

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 entered active duty in the Navy on 30 July 1996. Medical records indicate you were transported by ambulance to Naval Hospital █ on 16 April 1997. Medical personnel determined you received a mild head injury after being assaulted on the beach. You were released from emergency care and directed to return for a follow up visit. You returned on 18 April 1997 with a complaint of neck pain due to the assault. You were referred to the Orthopedic Clinic for consultation, and prescribed medication. There were no additional documents for the Board's review regarding the 16 April 1997 incident. You were released from active duty on 29 July 2000 at the completion of required active service and transferred to the Naval Reserve. On 17 July 2005, you were discharged from the Naval Reserve (Inactive).

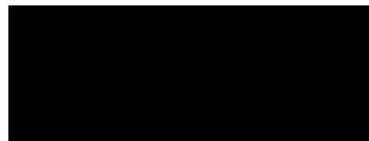
In your petition you claim you warrant medical retirement as your attending physician on 16 April 1997 stated you warranted all benefits including medical retirement upon completion of your end of active obligated service.

In reaching its decision, the Board noted that in order to qualify for a disability discharge you would have had to undergo, while in service, a medical board and that medical board would have had to determine that you were unable to perform the duties of your grade, rank or rating as a result of a disability. The Board did not find your argument that you suffered from a disability at the time of your discharge persuasive as you were not on limited duty and you were medically cleared to separate from active service. The Board noted that after the physical assault you were able to serve an additional three years without incident. You received positive evaluations and you received a favorable reentry code of RE-1 upon your discharge from active duty indicating that you were eligible and recommended for re-enlistment. In addition, you were transferred to the Naval Reserve and there are no documents to indicate that you were not able to serve due to a medical condition. In sum, in its review and consideration of all the evidence, the Board did not observe any error or injustice in your naval records. 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,

11/14/2023

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Deputy Director

Signed by:  0