



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

█
Docket No. 270-24
Ref: Signature Date

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Dear █

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 31 January 2024. The names and votes of the panel members 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 the 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, to include to the Secretary of the Navy Instruction 1650.1 (series), the Navy and Marine Corps Awards Manual.

The Board determined that your personal appearance, with or without counsel, would not materially add to the understanding of the issues involved. Therefore, the Board determined a personal appearance as not necessary and considered your case based on evidence of record.

You enlisted in the Navy and commenced active duty on 3 September 2002. You served honorably until 30 September 2022, when you were released from active duty after achieving sufficient service for retirement. During your military service, an enlisted evaluation report for the period from 16 February 2006 through 15 April 2007 documented your service while deployed to the Forward Operating Base (FOB), █, █. Your primary duties were as the dining facility section leader and FOB rations officer with additional duty supporting the FOB tower security watch. During your operational tour, your evaluations reflect that you performed extremely well in your assigned duties, and you were awarded the █ Campaign Medal in addition to personal and unit awards.

The Board carefully examined all potentially relevant factors, to include your desire to have your record reviewed for eligibility for the combat action ribbon (CAR) as well as your contention that you served in combat while in █ during which your base was subject to attack by enemy mortar rounds, rocket propelled grenades, and small arms fire. In support of your request, you included service records, information describing the Army unit you supported while serving at the FOB, and a Department of Defense Public Affairs press release documenting a mortar attack at the FOB during your time deployed there. You also provided a copy of a letter from the Records Analysis Branch, Naval Personnel Command (PERS-312), which responded to a congressional inquiry regarding your eligibility for the CAR. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. As outlined within PERS-312 response form, eligibility for the CAR generally requires that an individual render satisfactory performance under enemy fire while actively participating in a ground or surface engagement. The Board observed, consistent with the comments documented by PERS-312, your official military personnel file does not contain records which support a favorable eligibility determination for the CAR. Unfortunately, although incoming enemy fire is documented to have threatened the FOB during your assignment there, your presence within the FOB does not, in and of itself, meet the criteria of “participating in a ground or surface engagement” as required by the award criteria. Therefore, while the Board acknowledges that you served admirably during a time of significant risk in an active combat region, unfortunately, the Board found that your record does not document evidence of the participation required to be eligible for award of the CAR. Therefore, the Board concluded that there is neither an error nor an injustice with respect to your awards record. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

The Board thanks you for your Honorable and selfless service to this nation.

You are entitled to have the Board reconsider its decision upon the 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 is attached 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,

2/27/2024

