



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

[REDACTED]
Docket No. 6565-16

MAR 27 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 March 2017. 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, your naval record and applicable statutes, regulations and policies.

A review of your record shows you were assigned to a unit with credited service in the Republic of Vietnam in 1969-1970. The Department of Veterans Affairs rated you for Coronary Heart Disease, Type II Diabetes, and Sleep Apnea after your retirement. On 23 June 2016, the Combat Related Special Compensation (CRSC) Board approved your request for CRSC for Coronary Heart Disease and Type II Diabetes due to Instrumentality of War (Agent Orange). Your request for CRSC for Sleep Apnea was denied.

The Board carefully considered your arguments that you deserve CRSC for your sleep apnea condition since it is secondary to your heart condition. You assert that since your heart condition is a presumptive condition for Agent Orange, your Sleep Apnea should also qualify for CRSC. Unfortunately, the Board disagreed with your rationale for relief. The Board was unable to find medical evidence that shows your sleep apnea was the result of a specific combat related event or instrumentality of war. While you provided medical evidence that showed your sleep apnea may have a service connection to your military service, this did not convince the Board it was also related to combat or instrumentality of war. The fact your heart condition was granted for CRSC based on a presumption for Agent Orange and your sleep apnea may be secondary to that condition did not persuade the Board that your sleep apnea should also receive the same presumption that it was caused by Agent Orange. The Board determined that only conditions included in the list of presumptive conditions should receive the presumption and there was no evidence that supports a finding that your sleep apnea was caused by Agent Orange. The Board noted in the medical opinion you provided that the linkage between your heart condition and

sleep apnea was hypertension. That fact also convinced the Board your sleep apnea did not qualify for CRSC since it was not a specific combat related event or instrumentality of war. Accordingly, the Board was unable to find an error or injustice warranting a correction to your record and denied your application. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence not previously 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,

A large black rectangular redaction box covering the signature of the Executive Director.

Executive Director