



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

[REDACTED]
Docket No. 5381-17

DEC 15 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 U.S.C. §1552.

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 for Correction of Naval Records, sitting in executive session, considered your application on 30 November 2017. 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.

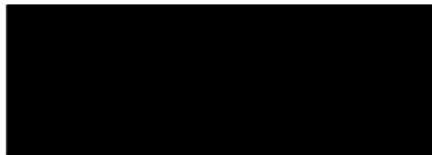
A review of your record shows that you entered service with the Navy Reserve in September 2002 and served a period of active duty from 12 September 2006 through 4 June 2007. Based on the evidence you provided, it appears you were diagnosed with multiple sclerosis (MS) in late 2009 but were suffering various potential symptoms of the disease as early as 2006. You were discharged at the end of your obligated service on 15 September 2010.

The Board carefully considered your arguments that you deserve to be placed on the disability retirement list due to your MS diagnosis in 2009. Unfortunately, the Board disagreed with your rationale for relief. First, there was no evidence your MS was incurred or aggravated while on active duty. While there is evidence that your condition likely became symptomatic between 2006 and 2009, the Board lacked evidence your condition was service connected since you were a drilling Reservist not on active duty for more than 30 days except for that brief period of eight months and 22 days starting in September 2006. Second, the Board also lacked evidence that your MS was unfitting at the time of your discharge. While it is true that you were diagnosed with the disease, your 15 November 2009 performance evaluation shows that you were not suffering from any occupational impairments at that time. You earned a 3.29 trait average and positive comments on your performance in addition to a recommendation for reenlistment. This

was persuasive evidence to the Board that at the time of your diagnosis and just 10 months prior to your discharge, you were performing at an above average level despite your disability condition. This convinced the Board that there was insufficient evidence to determine that you were unfit for continued naval service due to your MS. Accordingly, the Board was unable to find an error or injustice warranting a correction to your record and denied your application.

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