



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. 9283-19
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 was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 17 December 2020. 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 active duty with the Marine Corps in July 1994. After completing your initial period of active duty, you transferred to the Marine Corps Reserve. Subsequently, you served a number of periods of active duty between 2003 and 2015. Your last period of extended active duty ended on 31 March 2015. During your last period of active duty, you were referred to the Physical Evaluation Board (PEB) for a number of orthopedic conditions but was determined to be fit for continued active duty. As a result, you continued your career in the Marine Corps Reserve until your transfer to the Retired Reserve Awaiting Pay list on 31 July 2020. In 2015 and 2016, the Department of Veterans Affairs rated you for a number of service connected disability conditions.

The Board carefully considered your arguments that you deserve to be placed on the disability retirement list based on your service connected disability conditions. Unfortunately, the Board disagreed with your rationale for relief.

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,

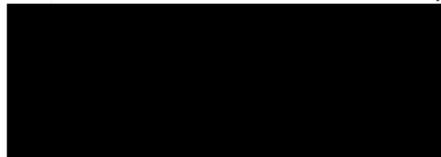


grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; or the member's disability imposes unreasonable requirements on the military to maintain or protect the member. In your case, the Board determined there was insufficient evidence to support a finding of unfitness. Specifically, the Board relied on your last three fitness reports from 30 September 2015 through 30 September 2017 that document you scored a first class Physical Fitness Test during that period. In addition, those fitness report document that you were performing your assigned military duties in an exceptional manner earning you the highest recommendation for promotion and retention ahead of your peers. In the Board's opinion, this was strong evidence you were fully capable of performing the duties of your office, grade, rank or rating despite the existence of disability conditions. As a result, the Board concluded the preponderance of the evidence did not support a finding of unfitness or placing you on the disability retirement list. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your record.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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,

12/22/2020



Deputy Director

Signed by:

