



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. 3434-23
Ref: Signature Date

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Dear Petitioner:

This is in reference to your reconsideration request 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 limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 21 March 2024. 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 in the Navy on 21 February 1984. On 5 July 1985, you underwent a medical board which determined you were unfit for further service due to reactive airway disease that existed prior to your enlistment. After being advised of that finding, and that you would be discharged without entitlement to disability benefits unless you requested a hearing before the Physical Evaluation Board (PEB), you waived your right to a hearing and requested administrative discharge as soon as possible. You were subsequently discharged in accordance with your request on 31 July 1985 with an Honorable characterization of service. Your Certificate of Release or Discharge from Active Duty (DD-214) states "Physical disability existing prior to entry on active duty, established by medical board, not entitled to severance pay" as the narrative reason for separation.

In 2004, you requested the Board grant you a disability discharge. Your request was denied on 9 July 2004.

For this petition, you again request a disability discharge. You argue that you did not have a pre-existing condition when you entered active duty and developed the condition while in active-service.

The Board carefully reviewed your petition and disagreed with your rationale for relief. In reaching its decision, the Board noted you did not provide any documentation to support your contention. Moreover, the Board found you served a total of five months and 11 days on active duty and, when notified of the medical board findings, did not rebut the decision of the medical board or demand a PEB hearing to contest the pre-existing finding. Consequently, the Board found it was more than likely you incurred the reactive airway disease prior to your enlistment in the Navy and your discharge to be appropriate. 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,

3/29/2024

