



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. 7914-23
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application 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 14 December 2023. 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 enlisted in the Navy Reserve on 17 March 1969. On 15 August 1969, you finalized two weeks of active duty for training. Prior to your release from this period of active duty, you were evaluated by a medical professional and found to be physically qualified for release from active duty. You were not found to have any unfitting qualified medical conditions for which you should receive line of duty benefits from your period of active duty for training. On 18 April 1970, you underwent a medical examination, which found that you had hypertension. Subsequently, the Department of the Navy Bureau of Medicine and Surgery (BUMED) determined that your hypertension condition rendered you not physically qualified for Navy Reserve service. On 30 September 1970, in accordance with the BUMED finding, you were discharged from the Navy Reserve due to being not physically qualified due to hypertension.

In your petition, you request to be granted a medical disability discharge. In support of your request, you contend that you should be granted such relief due to the BUMED finding while you were in the Navy Reserve and you believed you should receive a medical discharge from the Navy.

The Board carefully reviewed your petition and the material that you provided in support of your petition, and disagreed with your rationale for relief. In reaching its decision, the Board observed that a member of the Navy Reserve may qualify for medical treatment for disability conditions when such conditions are demonstrated to have been incurred or aggravated while in a qualifying duty status. This is demonstrated by the service member obtaining a Line of Duty Benefits (LODB) finding, which is a finding by Navy Personnel Command that the injury or illness was incurred during a qualifying duty status. In the absence of an LODB finding, a Navy Reserve member will be evaluated to determine whether they are physically qualified to remain in the Navy Reserve. If the Navy Reserve member is found to be not physically qualified, as is reflected in your service records, the member is discharged from the Navy Reserve.

If a member has obtained an LODB finding, then they proceed into the Disability Evaluation System at which a member is evaluated for fitness. In order to demonstrate 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; the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting. There is no evidence in your naval records, nor did you provide any, that you were referred to the Disability Evaluation System during your service. Further, there is no indication that such referral was warranted, regardless of the BUMED finding regarding your qualification for further Navy Reserve service.

In its further review of your naval records and the material that you provided, the Board concluded that the material provided was insufficient to demonstrate that you are entitled to a service disability retirement. The Board observed that you did not obtain an LODB concerning any medical condition while you served in the Navy Reserve. In fact, to the contrary, the Board observed that during your period of active duty for training, you were in fact found to be qualified for release from active duty and that there was no cause to issue you an LODB. The Board also observed an absence of evidence that such an LODB finding was warranted. Further, your petition did not include any other evidence or argument to demonstrate BUMED erred in its finding that you were not physically qualified to remain in the Navy Reserve. 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,

1/9/2024

