



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. 875-24
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 25 April 2024, has carefully examined your current request. 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, applicable statutes, regulations, and policies.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You previously applied to this Board to remove language pertaining to your cancer diagnosis from your record. This Board denied your request, on 1 December 2023, after determining insufficient evidence of error or injustice existed in your record.

You enlisted in the U.S. Marine Corps Reserve (USMCR) and began your initial tour of active duty on 14 October 1971. Upon completion of initial training, you were honorably discharged from active service on 14 April 1972 and you were subsequently assigned to a Reserve unit in █. The USMCR Career Retirement Credit Record in your official military personnel file (OMPF) indicates that, with the exception of a USMCR mobilization in 1990-91 for approximately six months, you were exclusively in a USMCR drilling status over the course of your entire military career, and not formally recalled back to active duty service for an extended period of time.

At your retirement medical examination, on 25 September 1998, the Navy Medical Officer (NMO) did not note any cancer or lymphoma diagnoses. However, less than one month prior to your USMCR retirement, on 6 November 1998, the same NMO placed a handwritten "addendum," on both the RMA and the examination form (Standard Form 98), noting that you were diagnosed with B cell lymphoma, seeing a civilian oncologist, and undergoing chemotherapy. The NMO specifically documented that the cancer/lymphoma "was not diagnosed while on active duty." On 1 December 1998, you were retired from the USMCR at the rank/grade of Master Gunnery Sergeant (E-9).

For this petition, you claim your cancer was due to your military service while on active duty and that removal of the NMO comments, on the 11 September 1998 examination report, stating your cancer "was not caused while on active duty" is warranted. You included a 5 October 1998 pathologist report and medical record that indicated the cancer diagnosis.

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 you were a USMCR drilling Reserve Component member who had very limited periods of active duty during your Reserve career. The Board noted Reserve Component members can incur medical conditions while in the USMCR but that does not automatically mean the injury or condition occurred while the member was on active duty. The Board further noted for Reserve service members to be eligible for a disability benefits, their injuries or medical conditions have to be determined to have been sustained or exacerbated while in an active duty status via a Line of Duty Benefits (LOD-B) determination. The Board found no evidence you were recommended for a LOD-B determination as the NMO determined your cancer was not incurred while you were in an active status. Further, reviewing medical records dating back to 1993, there was no indication of any cancerous or lymphoma diagnoses. Consequently, the Board was unable to determine that your lymphoma condition originated while you were on active duty. Therefore, the Board found insufficient evidence of error or injustice to warrant removing the NMO comment in question from your record. 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,

5/20/2024

