



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. 1001-24
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.

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 11 July 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 and applicable statutes, regulations, and policies.

You previously applied for relief to this Board and were denied on 16 March 2023. The facts of your case remain substantially unchanged. You contended that, while you were on active duty, your health rapidly declined after your thyroid cancer removal surgery. You also provided documentary evidence, which the Board fully considered. The Board notified you, by letter dated 6 April 2023, that it denied your requested relief, explaining:

In reaching its decision, the Board observed that there is no evidence in your service record, and you provided none, describing that, while you were on active duty, you were evaluated by a medical board with a referral the Physical Evaluation Board. Similarly, there is no information in the available materials constituting a non-medical assessment from your command explaining that you were unable to perform your duties. To the contrary, your performance evaluations described your service in laudable terms and reflect that you were a fit and valuable senior enlisted leader who was relied upon by the highest level of leadership in your command. Your evaluation through 15 September 2015 contained a breakout ranking you as the number 2 of 8 senior chiefs and ranked you against your peers as “must

promote” above two “promote” and behind one “early promote” among members in your competitive category. Your commanding officer also provide you the “strongest possible recommendation” for advancement to master chief petty officer. Your final evaluation, through 15 September 2016, described you as an exceptional leader and ranked you as “early promote.”

After reviewing these materials, the Board explained that these descriptions are “not consistent with you having a condition that rendered you unfit to serve.” Ultimately, the Board concluded that it found no evidence that, “while you were on active duty, you suffered an unfitting condition such that you were unable to perform the duties of your “office, grade, rank or rating as a result of a qualifying disability condition.”

In your current request, you seek reconsideration for your request for a medical disability retirement. In support of your request for reconsideration, you provided another personal statement in which you argued that your fibromyalgia and other chronic disabilities were diagnosed while you were on active duty and those conditions were corroborated by your Commanding Officer’s letter of 8 July 2020 to the Department of Veterans Affairs (VA). Thus, you argue, it was a clear injustice that you were not referred for a fitness determination by a medical evaluation board. In your statement, you also set forth and describe a variety of service connected disability findings by the VA. You also provided documents, including medical documentation, in support of your request. However, the Board found that the new material you provided was insufficient for the Board to change its prior decision and reaffirmed its prior finding based, primarily, on your work performance prior to your release from active duty. While the Board also considered that a member may also 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, imposes unreasonable requirements on the military to maintain or protect the member, or results in two or more disability conditions which have an overall effect of causing unfitness, the Board determined there was insufficient evidence provided that supports such a finding in your case.

In your current petition, you also sought additional relief in the form of a retroactive advancement in pay grade to E-9. In support of this assertion you assert that your promising military career was abruptly cut short due to your illnesses. You stated that you have “zero doubt” that if you remained in service you would have continued to excel and you would have advanced to Master Chief. On this point, the Board determined that you failed to provide sufficient evidence to support the requested relief. Specifically, the Board observed that you did not cite authority or provide sufficient documentation to support this request for a post-service advancement in pay grade. 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,

8/1/2024

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Executive Director

Signed by: █