



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. 1545-24
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.

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 panel members 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 and commenced active duty on 15 August 2007. On 17 March 2008, a Navy Drug and Alcohol Program Advisor (DAPA) wrote to your commanding officer and explained that you were screened by a clinical psychologist, and you were recommended to attend Level III rehabilitation treatment. The letter explained that you were "thoroughly counseled" on the matter, and that you refused to attend treatment. In response to the recommendation that you attend treatment, you signed a written statement in which you declined any and all treatment for alcohol and/or drug dependency by a medical officer and that you refused to accept any treatment that is recommended for any alcohol and/or drug dependency. Thereafter, you were notified of the initiation of administrative separation processing and your rights in connection therewith based on alcohol rehabilitation failure. On 8 April 2008, your commanding officer recommended that you be discharged, and you were honorably discharged on 24 April 2008.

In your petition, you request to be awarded a service disability discharge. In support of your request, you contend that while you were in service you were never diagnosed as an alcoholic as you should have been and that, had you been properly diagnosed, you would have received a disability discharge.

The Board carefully reviewed your petition and information you provided in support of your request, and it disagreed with your rationale for relief. In reaching its decision, the Board observed that in order to qualify for military disability benefits through the Disability Evaluation System (DES) 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; 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.

In reviewing your record, the Board concluded that the preponderance of the evidence does not support a finding that you met the criteria for placement into the DES at any time in during your Navy service. In fact, your record reflects that while you were in service you were recommended to attend Level III treatment for alcohol and/or drug dependency. Your record further reflects that you specifically declined treatment and you were recommended for discharge only after you refused to attend treatment for alcohol and/or drug dependency. In addition, the Board determined that there is no other evidence in your record, and you provided none, that supports a finding that you had any condition for which entry into the DES was appropriate. The Board observed that your actual reason for discharge was due to your failure of alcohol rehabilitation, and you provided no documentation to the contrary. 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,

4/5/2024

