



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. 2994-24
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 26 June 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 the 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, to include Secretary of the Navy Manual 1650.1. In addition, the Board considered an advisory opinion (AO) provided by Navy Department Board of Decorations and Medals (NDBDM), dated 10 May 2024. Although you were provided an opportunity to respond to the AO, you chose not to do so.

You enlisted in the Navy and began a period of active duty on 3 October 2001. You completed your initial period of obligated service and received an Honorable discharge for completion of required active service on 2 October 2008, at which time you transferred into the Naval Reserve. You returned to an active duty status and, on 19 January 2010, were assigned as a combat corpsman to serve with the █ and deploy in support of combat operations during Operation ENDURING FREEDOM (OEF). You were awarded a Combat Action Ribbon, on 25 October 2010, when the unit you were accompanying came under enemy mortar fire that resulted in casualties. You provided immediate medical care, during which you were observed by at least two witnesses to have been knocked back into a mine roller by a blast from enemy mortar fire. One witness reported that you "did not look right" and were clearly in pain. Although he suggested that you depart with the medical evacuation helicopter, it did not have extra room, and you assured your senior enlisted leader that you would seek out medical care upon your return from the convoy the following day.

The first available medical record documenting evaluation and treatment of your injuries is dated from 7 December 2010, when you sought care from in-theater physical therapy. The medical noted documented that you reported that you “did not notice a problem until next day or 2 days later” and had initially treated your injury on your own with rest and an nonsteroidal anti-inflammatory medication. You completed your combat tour on 22 June 2011 and were additionally awarded a Navy/Marine Corps Commendation Medal (NC) with a Combat “V” for valor in light of your heroic actions in providing lifesaving medical treatment under ongoing enemy fire on 25 October 2010.

The Board carefully weighed all of the factors you presented to support your request, to include your contention that the injuries you sustained on 25 October 2010, while rendering medial aid in close range to the impact of two enemy mortar rounds, were of sufficient severity that you should be eligible for award of the Purple Heart Medal (PHM). You state that you were not permitted to accompany the medical evacuation due to not being on the original 9-line request, which also had the effect that no personnel casualty report (PCR) was generated. You elected to “tough it out” and remained with your unit for the remainder of the patrol rather than seeking timely treatment, but have lived with the pain of your injuries in the years since your return from combat, to include multiple medical procedures, pharmacotherapy infusions, and physical therapy. In support of your request, you submitted the summary of action and NC citation referenced in the paragraph above, substantiating medical records regarding the nature and severity of your injury, a letter from the [REDACTED] dated 23 October 2023, two witness statements, and a letter from Headquarters Marine Corps documenting its determination that you were not eligible for award of the PHM.

Given the complexity of the criteria under which a member may or may not be found eligible for award of the PHM, the Board also considered AO provided by NDBDM, which advised that the available evidence does not substantiate your eligibility. Specifically, NDBDM advised that your injury did not meet either the circumstantial or severity threshold required for entitlement to the PHM. NDBDM pointed out that that your NC award documents your heroic actions in rendering combat medical care; however, neither the summary of action narrative nor the citation for the award indicates that you were wounded at the time. You also admit that there was no PCR submitted for your injury and that you chose not to seek medical attention at the time it occurred, in spite of being a combat corpsman and, presumably, understanding the basic requirements necessary to document whether a combat injury might qualify for award of the PHM. Although you provided direct witness statements regarding the observation that you were injured by enemy action during this incident, neither of these statements can medically confirm that your injury met the severity threshold required for award of the PHM. An injury incurred as a result of enemy action must have required contemporaneous treatment by a medical officer. Regulations define a medical officer as a physician with officer rank. Additionally, regulations mandate that this treatment must occur within seven days of the injury and it is not sufficient that a medical officer conducts an assessment of your medical records years later and provides a temporally remote opinion that your injury “would have” met the severity criteria if you had chosen to receive timely medical attention. Unfortunately, you chose not seek medical attention of your injury until 43 days after the incident. In fact, rather than a finding by a medical officer that you were unfit for duty for the requisite period of time as a result of your injuries, you continued the mission without receipt of medical attention or light duty. Therefore, upon consideration of the available evidence of record in addition to your supporting evidence and

witness statements, the Board concurred with the NDBDM regarding the lack of evidence that your injury met the severity threshold required for award of the PHM. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

The Board recognizes your Honorable and faithful service to the nation and sincerely appreciates the sacrifice you made volunteering for the perilous duties of a combat corpsman alongside U.S. Marines during OEF. The Board emphasizes its analysis and findings are not intended in any way to diminish the value of your service or your sacrifices to the nation.

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,

7/11/2024



Executive Director

Signed by:

