



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

██████████  
Docket No. 3121-24  
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 7 August 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, applicable statutes, regulations, and policies. In addition, the Board considered an advisory opinion (AO) from the Navy Department Board of Decorations and Medals. Although you were offered an opportunity to respond to the AO, you chose not to do so.

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 enlisted in the U.S. Navy Reserve and served on active duty for training on 30 January 2005 until 5 November 2005. You were also mobilized in support of ██████████ from 20 March 2008 until 5 January 2009.

Post discharge, you requested Navy Personnel Command (NPC), Records Management and Benefits Division review your record to determine your eligibility for the Combat Action Ribbon (CAR). On 15 September 2023, in a letter to your congressional representative, NPC denied

your request as your Official Military Personnel File (OMPF) did not support an eligibility determination and the handwritten logs you provided were not official deck logs that are retained by the National Archives and Records Administration.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case. These included, but were not limited to, your desire for the CAR to be awarded and contention that you experienced the same IED's, IDF, and SAF as others that received the CAR. These included those that were in your security element, as well as your truck commander. For purposes of clemency and equity consideration, the Board considered the evidence you provided in support of your application.

As part of the Board review process, the BCNR requested NPC to review your record for awards you were entitled to. On 15 May 2024 NPC stated in pertinent part:

The evidence is insufficient to substantiate the Petitioner's claim.

The documents submitted by the Petitioner are not an official records. They appear to be his or someone else's personal notes, and therefore per ref (c) do not qualify as evidence upon which a retroactive CAR determination can be made.

Even if the notes were to be accepted as evidence, they would not substantiate the Petitioner ever met the CAR criteria. Nearly all the incidents highlighted involved receipt of some indirect fire (IDF), and none describes the Petitioner taking any retaliatory or offensive action during a combat engagement, which has been the fundamental criterion for the CAR since its inception in 1969. Therefore, the documents submitted by the Petitioner are not probative.

The Petitioner alleges another member of his unit, possibly a person who may have been in the same vehicle with him at times, was awarded the CAR. However, he presents no official evidence to substantiate that allegation. This board is an advisory body, not an investigative body. The Petitioner bears the entire burden of proof of any claim of material error or injustice by him.

Under the presumption of regularity in government affairs, we must presume the Petitioner's official service record to be accurate and complete, and his record appears to have been properly maintained in every respect. We must also presume that if he had qualified for the CAR, his commanders would have taken the appropriate steps to ensure he received it and be appropriately documented in his service record. The Petitioner provided no evidence to overcome the presumption, or to substantiate his claim.

The AO concluded, "Petitioner is not entitled to the CAR, and we found no evidence of material error or injustice. Therefore, we recommend BCNR deny relief. Were BCNR to grant relief in this case, such action would be inconsistent with the criteria and standards applied to all other Service Members."

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board concurred with the AO and determined, even if the notes you provided were to be accepted as evidence, they would not substantiate that you met the CAR criteria. Nearly all the incidents highlighted involved receipt of some indirect fire (IDF), and none describes you taking any retaliatory or offensive action during a combat engagement; which has been the fundamental criterion for the CAR since its inception in 1969. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

The Board thanks you for your faithful and selfless service to this country.

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,

8/23/2024

