



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

██████████
Docket No. 9750-24
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.

A three-member panel of the Board, sitting in executive session, considered your application on 13 February 2025. 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.

A review of your record shows that you enlisted in the Navy and commenced a period of active duty on 8 June 2004. You completed your required active service, separated on 17 November 2015, and thereafter affiliated with the Navy Reserve. You served periods of active duty from 5 May 2017 to 21 November 2017, 9 August 2018 to 21 June 2021, and from 11 March 2022 to 12 October 2022. On 7 June 2024, Navy Personnel Command, via its PERS-912 department, sent you Notice of Eligibility for reserve retirement at age 60. You submitted a request for Line of Duty Benefits for Disability Evaluation System (LOD for DES) due to the condition of DOPA Responsive Dystonia. On 19 January 2024, Navy Personnel Command, via its PERS-95 department, informed you that your request was denied due to the following reasons:

- a. The documentation provided does not support incurrence or aggravation during a qualified period of, or as a result of, Navy service.
- b. DOPA Responsive Dystonia is a disorder that progresses gradually over many years. The documentation provided states you have had this condition since

childhood and that the condition has not progressed beyond a point of natural progression.

c. Genetic testing is needed to confirm the diagnosis but was declined.

3. You may appeal this decision to the Office of the Judge Advocate General (Code 13) via Commander, Navy Personnel Command (PERS-95) within 60 calendar days of receipt of this letter. Ensure your appeal states the specific reason(s) for appeal, fully addresses the reason(s) for denial as listed in paragraph (2a) through (2c) above, is endorsed by your Navy Reserve Center (NRC) and submitted via your Navy Reserve Region Readiness and Mobilization Command (REDCOM). PERS-95 will not accept documentation directly from you.

Thereafter, you appealed PERS-95's denial of your LOD-B to Code 13, the Administrative Law Division of the Office of the Navy Judge Advocate General. On 9 August 2024, Code 13 denied your appeal of the denial of your request for LOD for DES as follows:

2. Reference (c) [Navy Disability Evaluation Manual] states that, reserve component members who are not currently on orders to active duty specifying a period of more than 30 days but who incurred or aggravated a medical condition while the member was previously part of the active component or while ordered to active duty for more than 30 days are eligible for a duty related DES entry. Per reference (c), in order for a condition to be determined to be in the LOD as a prior-service impairment that is eligible for duty-related DES entry, the condition must have been "incurred or aggravated during one period of active service or authorized training in any military service that recurs, is aggravated, or otherwise causes the member to be "unfit during another period of service."

3. The record does not establish by a preponderance of the evidence that you incurred DRD during any period of active-duty service or that this condition was aggravated as a direct result of active-duty service. Therefore, your appeal is denied, and this condition is not eligible for duty related LOD-DES referral.

On 22 August 2024, PERS-95 transmitted the Code 13 letter, above, to you, explaining that your reserve center had been directed to initiate a Temporary Not Physically Qualified or Medical Retention Review within 60 calendar days.

In your petition, you request that this Board review the denial of your request for LOD for DES; which, as described above, was denied by PERS-95 and by Code 13. In support of your request, you contend that without an LOD for DES finding you are unable to complete a gene test; which would confirm the diagnosis of your condition. You further argued that burn pits have been known to cause Parkinson's disease and other neurological disorders, and you had been deployed to ██████████ and ██████████ for a total of 14 months. You also argued that, without a gene test, you can only speculate the cause of your condition. Documentation that you provided with your petition included, without limitation, a personal statement, Department of Veterans Affairs award documentation, service medical records, and selection of service record documents.

In its review of your petition, including all of the materials that you provided, the Board disagreed with your rationale for relief. In reaching its decision, the Board observed that it applies a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. In its thorough review of your petition and all associated materials, including all of the materials that you provided in support, the Board determined that your request for LOD for DES had been appropriately reviewed at every level and that your arguments for such had been fully evaluated and appropriately considered. The Board was unable to find evidence sufficient to overcome the presumption of regularity in the processing and evaluation of your request, and thus the Board was unable to find an error or injustice in your naval 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,

3/6/2025

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Executive Director

Signed by: █