



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. 229-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 was 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 request on 6 August 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. The Board also considered a 27 May 2025 advisory opinion (AO) from the Department of the Navy Council of Review Boards (CORB).

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.

A review of your record reveals that you enlisted in the Marine Corps and served an honorable period of active duty from 3 January 1985 to 2 January 1989. You reenlisted and later commenced another period of active duty on 23 January 1991. On 8 February 1991, you received nonjudicial punishment (NJP) for disobeying an order of a superior commissioned officer not to see a specific married woman. On 8 February 1991, you received a Page 11 warning for your NJP. On 7 March 1991, you received another NJP for being absent from restricted muster, disobeying the order of a gunnery sergeant by having a woman on the second deck of the barracks, and for making a false statement relating to your military ID card. On

15 March 1991, you received another NJP for being absent from your appointed place of duty. On 28 May 1991, you were administratively discharged due to pattern of misconduct with an Other Than Honorable characterization of service.

In 2019, you filed a petition with this Board in which you sought an upgrade in your discharge characterization and a change to your separation authority, separation program designator, and narrative reason discharge to disability retirement. You also sought a restoration of rank to (E-4) and an award of medals equivalent to your fellow service members with whom you served. The Board informed you by letter, dated 19 August 2021, that it granted you relief in part by recommending that you be transferred to the Permanent Disability Retired List (PDRL), effective 29 May 1991, your discharge characterization be changed to Honorable, and that other conforming changes to your narrative reason, authority for separation, and separation program designator were to be made. However, it denied your request for restoration of rank and for an award of a Good Conduct Medal (GCM). In denying your request for restoration of rank, the Board explained that “it found no error or injustice in the NJPs administered or in the rank reductions that resulted” and, therefore, it was “not inclined to remove these NJPs or to restore Petitioner’s rank.” In denying your request for a GCM, the Board further explained that it was “not inclined to direct that Petitioner receive a Good Conduct Medal for the period in question because Petitioner did not meet the minimum time in service requirement for this award and his misconduct, even if mitigated, negated his eligibility for such recognition.”

In your current application, you request to be awarded Combat Related Special Compensation (CRSC) for PTSD retroactive to 1 July 2019 (at 70%), taking into account the increase to 100% in May 2020 as well as all back pay and entitlements due because of the correction. You also request that your records be corrected to reflect that your disability retired pay was found to be combat related, under 26 U.S.C. § 104, at the time of your separation and direct that all pecuniary benefits, retroactive pay and allowances be disbursed to you as a result of the retroactive designation. Finally, you request to have your NJPs overturned or removed from your naval records, have your forfeited pay returned, and that you be restored to paygrade E-3. In support of your requests, you argued that on 8 May 2023, the CRSC Board denied your application, concluding that it was regretful that you were “exposed to the scenarios well-documented in your application.” However, the CRSC Board concluded that your “witness or exposure to traumatic events (visual and hands-on experience of processing human remains), while regretful, are not in itself sufficient to qualify for a combat-related determination.” You explained in your petition that in reaching its decision, the CRSC Board did not mention or apply any of the CRSC criteria or implementing guidance and it directed you to apply to this Board if you disagreed with the decision. You further argue that your PTSD stems from your service at █ during the █. You contend that you are eligible for CRSC benefits because your PTSD was a direct result of armed conflict (AC) or hazardous service/duty (HS) criteria.

In order to assist it in reviewing your claim for CRSC and for designation of your disability retirement to be considered combat related, the Board obtained the 27 May 2025 AO. A copy of the AO was provided to you for comment or rebuttal and the Board did not receive any response from you. According to the AO, which was considered unfavorable to your request:

After a thorough review of the available documentation and the established criteria for CRSC eligibility, it is my conclusion [Petitioner] does not meet the necessary conditions under either the Armed Conflict (AC) or Extra Hazardous Service (EHS) categories for this request.

The CORB explained that pursuant to its controlling guidance, the CRSC Board will find a disability combat related “when a preponderance of the evidence demonstrates the disability was incurred under one of the following five scenarios: (i) the disability is attributable to an injury for which the member was awarded the Purple Heart; (ii) the disability was incurred as a direct result of armed conflict (AC); (iii) the disability was incurred while engaged in extra hazardous service (EHS); (iv) the disability was incurred under conditions simulating war (CSW); or, (v) the disability incurred was caused by an instrumentality of war (IOW).”

In your case, you asserted that you are eligible for CRSC: (1) as a direct result of armed conflict, or (2) it was incurred while engaged in extra hazardous service. The AO thus addressed each of these assertions as follows:

a. Armed Conflict. [Petitioner’s] mortuary duties during the █, while emotionally and psychologically difficult, do not meet the criteria for Combat-Related Special Compensation under the Armed Conflict (AC) provision. His role involved processing the remains of deceased service members but did not entail direct participation in combat or engagement with hostile forces. CRSC determinations require a preponderance of credible, objective documentary evidence establishing a definite causal link between the disability and armed conflict. This means that quality and reliability of documentation outweigh quantity, and decisions are based on verifiable facts rather than personal opinions or speculation. In [Petitioner’s] case, the available records show no direct exposure to combat, hostile fire, or enemy action that would causally relate his PTSD to armed conflict. Consequently, despite the acknowledged psychological impact of his service, and while the condition is service connected, the evidence does not support a combat-related determination under AC criteria.

b. While Engaged in Hazardous Service (EHS). [Petitioner’s] mortuary duties at █, though emotionally taxing, do not meet the criteria for Extra Hazardous Service (EHS) as defined by CRSC. His work did not involve direct participation in activities traditionally recognized as hazardous, such as exposure to hostile fire, aerial flight, parachuting, demolition, or diving. Furthermore, his voluntary participation in a psychological research study does not constitute “experimental stress duty” because it lacked the unusual or inherent risks associated with hazardous service. Under CRSC's standard of proof, a determination must be based on the preponderance of credible and objective documentary evidence, emphasizing the quality and reliability of information over quantity. In this case, the available evidence does not establish that [Petitioner’s] service involved direct hazardous duty or activities that would causally relate his condition to extra hazardous service, and therefore, his condition does not qualify under EHS criteria.

The AO concluded, “while [Petitioner’s] service and the traumatic nature of his mortuary affairs duties at █ are undeniably impactful, they do not meet the required criteria for CRSC under either AC or EHS standards.”

The Board carefully reviewed your contentions and the material that you submitted in support of your request and 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 your case, the Board considered your contentions that you are entitled to CRSC due to PTSD as a direct result of either armed conflict or from engaging in an extra hazardous duty. On these points, the Board concurred with the findings of the AO, which the Board found to be rational and based on substantial evidence and it incorporates the rationale of the AO. The Board also denied your request that the condition for which you received a disability retirement should be considered combat related for substantially the same reasons. Accordingly, as set forth above, the Board was unable to find an error or an injustice in your naval records with respect to the denial of your request for CRSC or due to the lack of combat related designation of the unfitting condition for which you were ultimately separated from service (as directed by this Board’s prior decision).

The Board next turned to your request that your NJPs be removed, that your rank be restored, and that you received all back pay and entitlements. In denying these requests, the Board noted that in its previous letter to you, from Docket No. 11759-19, it explained that “it found no error or injustice in the NJPs administered or in the rank reductions that resulted” and therefore it was “not inclined to remove these NJPs or to restore Petitioner’s rank.” In its review of your petition and all of its attachments, the Board determined that your current petition contains insufficient new evidence to overcome the previous decision of this Board. 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,

8/25/2025

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