



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. 7526-25
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.

On 31 July 2025, a three-member panel of the Board, sitting in executive session, considered your application for reconsideration of its prior denial based on the statute of limitation. On reconsideration, you contend it would be in the interest of justice to excuse your failure to submit your application in a timely manner because you only discovered the error or injustice within the last three years. Specifically, you argue that your latest decision by the Department of Veterans Affairs (VA), which regards one of the medical conditions at issue in your request, was not received by you until 30 November 2023. You also assert that it was not until you saw a television commercial relating to the AFFF class action lawsuit in July 2023 that you realized that more of your medical conditions could have been caused by your military service and that you may have recourse against the service. In particular, as newly discovered evidence, you assert (1) that you did not receive your Respiratory Conditions VA Disability Benefits Questionnaire (DBQ) until 22 June 2023, and (2) you prepared a declaration at Tab W of your original brief in support of your petition. Brief of Petitioner, 3 February 2024, Tab W.

After careful and conscientious consideration, the Board determined this was an insufficient reason to find it in the interest of justice to excuse your failure to submit your application in a timely manner. Notable evidence the Board considered in reaching this decision include the fact that, as set forth in the brief in support of petition of February 2024, contains excerpts of your medical records demonstrating you made contemporaneous complaints about such conditions, which would have been in the 1997 time frame, *i.e.*, more than 25 years ago, which is well beyond the three-year statute of limitations. Brief of Petitioner, 3 February 2024, at 8-9. The fact that you have submitted records of such conditions contemporaneous to your time in service belies your assertion that you only discovered that you had such conditions in the last three years. You made similar arguments with respect to your migraine and neuropathy conditions in your previous brief in support of your petition, *e.g.*, “[t]he medical evidence . . . establishes Applicant suffered from and complained about this neuropathy and its related symptomology

while still in the Service and that this condition was caused by his chemotherapy treatments.” Brief of Petitioner, 3 February 2024, at 11. That you allege you suffered from and complained about these conditions while you were in service is evidence that these conditions were not recently discovered. Finally, you argued that the declaration that you provided at Tab W of your original brief in support of your petition was only newly discovered. Upon its careful review of your declaration, the Board was unable to find sufficient evidence to support waiving the statute of limitation. Accordingly, the Board denied your petition for reconsideration.

The decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

8/14/2025

