



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

EGA
Docket No: 5683-14
6 July 2015

[REDACTED]
[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 26 June 2015. 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, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. You requested reinstatement to the Temporary Disability Retired List (TDRL) after you were administratively removed in January 2014. You stated that you never received any medical evaluations or information on the follow-up steps for periodic examinations while assigned to the TDRL. However, SECNAVINST 1850.4E requires servicemembers placed on TDRL to attend all required medical evaluations and to "keep CHNAVPERS, CMC (MMSR-4), and the Defense Finance and Accounting Service (DFAS) Cleveland Center apprised of their current address." The instruction warns that a failure to do so, either willfully or through negligence, may result in the suspension of disability retired pay and will be considered as showing intent on the servicemember's part to abandon benefits. You stated that you were dropped from the TDRL in August 2013, but your records show that you remained on the TDRL until 15 January 2014, when you were administratively removed for

failure to report for required evaluations. The Board did not have any evidence to support an error or injustice that would require your reinstatement to the TDRL. It felt you failed to meet your obligation to ensure compliance with SECNAVINST 1850.4E, while continuing to receive the maximum benefit of 5 years on the TDRL and ongoing treatment from the Department of Veterans Affairs (VA). As a result, the Board felt that you were appropriately removed from the TDRL. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board within one year from the date of the Board's decision. 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,

A handwritten signature in black ink, appearing to read "Robert J. O'Neill", written in a cursive style.

ROBERT J. O'NEILL
Executive Director