



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. 1823-21
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 17 March 2022. 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 determined that a 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 shows that you enlisted in the Marine Corps and commenced a period of active duty on 6 April 2015. On 29 March 2016, you obtained the findings of a licensed clinical social worker (LCSW) therapist, who explained that:

Her symptoms of consistent depressed mood and lack of motivation to perform well at work appeared to have been due to deciding being marine is a poor fit for her. She discussed lack of resiliency when dealing with pressure at work and recent divorce. She reported work stress was affecting self-esteem, energy level, and mood on a daily basis.

During her last appointment with me she disclosed how her childhood-history has contribute to lack of resiliency as well as thoughts of self-harm. She reported she would not act on thoughts of self-harm due to current life circumstances being temporary. Considering the severity of her symptoms as well as long standing history with depression, I decided to diagnose her with Major Depressive Disorder, recurrent. This disorder indicates she cannot control and/or manage symptoms on her own. *This disorder also is not a physical disability.* [emphasis added]

At this time I am recommending administrative separation due to the severity of her current episode as well as her reported lack of willingness to perform current responsibilities. She also displays lack of resilience to work stressors as evidenced by disclosing letting feedback from supervisors affect self-image, overall mood and energy level.

You were later seen by the Mental Health Directorate at Naval Hospital, [REDACTED], who diagnosed you with an adjustment disorder and prepared a 5 April 2016 memorandum on your behalf which stated, “[t]he results of the medical record review, mental status exam and clinical interview suggest that [you were] unsuitable for military service.” The memorandum continues, “she is not considered to be mentally ill (not ratable by a Physical Evaluation Board) but rather manifests a disorder which is of such severity as to render her unsuitable for continued military service.” You sought legal counsel from a Marine Corps Legal Assistance Attorney, and, on 11 April 2016, he submitted a letter on your behalf requesting that you be discharged due to a condition, not a disability, which included a copy of the letter of the LCSW. Pursuant to your request, you were discharged on 11 October 2016, due to condition, not a disability.

In your petition, you have requested that your administrative discharge be changed to a medical discharge based on anxiety or major depressive disorder. In support of your petition, you contend that at the time you were discharged your condition was considered a condition, not a disability, however, today “it is a disability according to the separation manual.”

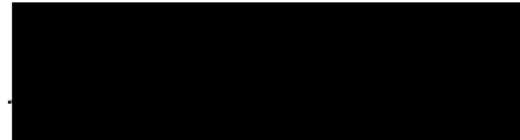
In order to qualify for military disability benefits through the Disability Evaluation System with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; the member’s disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting. In reviewing your record, the Board concluded the preponderance of the evidence does not support a finding that you met any of the criteria for unfitness at the time of your discharge from the Navy. Specifically, the Board noted that, while you were on active duty, you were evaluated by both civilian and military mental health professionals. Both of those mental health evaluations specifically noted that you did not have a condition that was considered unfitting and specifically stated that you did not have a ratable disability. The Board noted in 5 April 2016 memorandum that you were not diagnosed with a chronic adjustment disorder and, therefore, did not possess a compensable disability

diagnosis contrary to your understanding. Your civilian mental health professional explained that you were a “poor fit” for the Marine Corps and that you were unwilling to perform your current responsibilities. The Board also noted that your record shows no limitations based on health condition by way of being placed on light or limited duty. Similarly, there are no personnel records establishing duty limitations, nor are there any affirmative findings of fitness by any clinical providers. In light of the foregoing, the Board observed no error or injustice in your discharge and denied your petition.

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,

3/25/2022

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Deputy Director

Signed by:

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