



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. 625-22
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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 1 August 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 also reviewed the 3 May 2022 advisory opinion (AO) from a medical professional. A copy of the AO was provided to you for comment, but you chose not to provide a response.

A review of your record shows that you enlisted in the Marine Corps on 23 September 1977 and you completed your required service on 25 September 1981. Thereafter, you affiliated with, and served for a period of time with the █ Army National Guard. In January 2021, you applied to the Army Review Boards Agency seeking a 100% service-connected disability and to change in your narrative reason for separation. Your application was forwarded to this Board due to your active service having been with the Marine Corps.

In your petition, you seek a 100% service connected disability discharge. You state that while you were in the Army National Guard you injured your fingers. You further state that when you were in the Marine Corps, your fingers were deformed at separation and you snapped your fingers back in place. You also describe █, and that "after separation from USMC & USN [you] suffered with psychological occurrence which had an illusionistic reality of hurt, harm and fear of danger." In addition, you described █

██████████, and that you were “discharged with high stress levels and psychological impacts that was only diagnosed in the USN Military Service Records.”

In order to assist it in reviewing your petition, the Board obtained the 3 May 2022 AO. The AO reviewed your service and medical records, as well as your petition and its supporting documents. According to the AO:

In-service records did not contain evidence of a diagnosed mental health condition, or of psychological symptoms/behavioral changes indicative of a diagnosable mental health condition. There were no clinical records indicating other medical conditions were diagnosed, treated, or resulted in duty limitations or occupational impairment. Throughout his counselings, disciplinary, and administrative processes, there were no concerns raised that would have resulted in a referral for mental health evaluation or treatment. The Petitioner has not provided post-service evidence that he incurred a mental health condition or medical condition during military service, or experienced any specific psychological stressor events. The lack of clarifying information made available did not provide enough markers to establish an onset and development of mental health symptoms or identify a nexus with his misconduct or existence of occupational impairment. His contention of unfitness is not supported by the objective evidence as his in-service record demonstrated successful performance of his duties and successful completion of in-service schools and training. His performance evaluations and record of achievement throughout his military service do not show any evidence of occupational impairment or unfitness for duty.

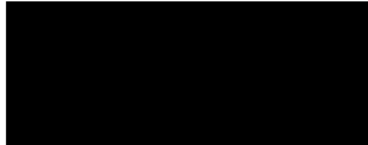
The AO concluded, “the preponderance of evidence provides insufficient support for the request. This is due to the presence of objective evidence that the applicant’s duty performance was judged to have been adequate at the time of separation. Had referral to the PEB occurred, a finding of fit to continue naval service would have been the likely result. Should any further evidence surface supporting unfitness or a disability retirement, resubmission would be appropriate.”

The Board carefully considered your arguments, including the entirety of your petition and its enclosures, and disagreed with your rationale for relief. 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. In denying your request for a disability discharge, the Board concurred with the findings of the AO. The Board observed that there were no findings that you had a qualifying disability condition while you were on active duty and noted that you were physically qualified to service in the Army National Guard after your release from active duty. In reaching its conclusion, the Board also determined that the presumption of regularity applied to the process employed with respect to your narrative reason for separation. Your record does not contain any documentation, nor did you provide any, that there was any error or injustice in your separation from the Marine Corps. 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,

8/19/2022



Executive Director

Signed by:

