



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

█  
Docket No. 7795-22  
Ref: Signature Date

█  
█  
█  
Dear Petitioner:

This is in reference to your reconsideration request 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 20 April 2023. 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 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.

The Board carefully considered your arguments for a change to your narrative reason for separation. A review of your record shows that you enlisted in the US Navy on 24 September 2004. On 14 January 2005, you received non-judicial punishment (NJP) for violating Article 86 unauthorized absence (UA) and Article 91 (insubordinate conduct) of the Uniform Code of Military Justice (UCMJ). Subsequently, the Psychiatry Department at Naval Medical Center Portsmouth diagnosed you with Schizotypal Personality Disorder and recommended administrative separation. Your Commanding Officer (CO) notified you, on 26 January 2006, of administrative separation processing for Personality Disorder and Commission of a Serious Offense. Ultimately, on 10 March 2006, you were discharged with a General (Under Honorable Conditions) characterization of service due to misconduct.

This Board previously denied your requests for relief in 2006 and 2009 before granting you partial relief, on 15 October 2020, by changing the narrative reason for separation from misconduct to Secretarial Authority. This decision was based on a finding that you had progressed past your misconduct by the time you were processed for separation for personality disorder.

For this petition, you request to change your narrative for separation to medical due to degenerative disc disease. You argue that you warrant a disability discharge because you injured your back, which made you unfit to continue to serve at the time of your separation. You provided as new evidence Veterans Affairs medical records, dated 30 June 2021, which document a diagnosis for degenerative disc disease.

The Board carefully reviewed all of your contentions and the material that you submitted in support of your petition, and the Board disagreed with your rationale for relief. In reaching its decision, the Board observed that, 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 of 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 again noted there was no evidence that you met any of the criteria for unfitness due to your back condition. As stated in the most recent Board decision, you were performing at or above fleet standards for your paygrade prior to your discharge. The Board concluded, but for your personality disorder diagnosis, you were physically qualified for continued active duty at the time of your discharge. The Board was not persuaded by the VA medical evidence since the diagnosis was issued approximately 15 years after your discharge. Further, the Board noted that eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated. As a result, the Board determined insufficient evidence of error or injustice exists to change your narrative reason for separation to disability. 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,



Executive Director

Signed by: 