



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. 8262-23
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 you did not file your application in a timely manner, the statute of limitation was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 4 January 2024. 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, applicable statutes, regulations, and policies, to include the Kurta Memo.

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.

A review of your record shows that you entered active duty in the United States Marine Corps (USMC) on 25 October 1993. On 5 August 1994, you were assigned to the Weight Control Program. On 1 September 1994, you were placed on limited duty for six months for your left knee. On 14 December 1994, you were counseled for unsatisfactory progress on weight control for not meeting weight loss goals. Your assignment to the weight control program was extended for six months on 8 February 1995. You received counseling entries from January until April 1995 for being eligible but not recommended for promotion to lance corporal due to failure to meet USMC height and weight standards. On your Weight Control progress notes, the 8 May 1995 entry states you informed your command that you did not intend to lose weight and you did not care if you were administratively discharged. Consequently, on 2 June 1995, your

commanding officer recommended administrative discharge due to failure to conform to weight standards. On 8 August 1995, you were involuntarily discharged for weight control failure with an Honorable characterization of service.

For this petition, you request medical retirement due to medical and mental health conditions, to include Post-Traumatic Stress Disorder (PTSD), and an upgrade in rank to E-3. You claim the decision to administratively discharge you was made without your consent. On 6 October 2023, the Board sent you notification that you did not include materials or documentation to support your claim of PTSD or mental health diagnosis and that your case will be administratively placed on hold for thirty days to allow you to submit any documentation. The Board did not receive any information and proceeded with the case.

The Board carefully reviewed your petition and disagreed with your rationale for relief. In keeping with the letter and spirit of the Kurta Memo, the Board gave liberal and special consideration to your record of service, and your contentions about any traumatic or stressful events you experienced, and their possible adverse impact on your service, to include whether they qualified you for the military disability benefits you seek.

In reaching its decision, the Board noted that there was no evidence you were diagnosed with a mental health condition during military service, and there was no evidence your difficulty in the weight control program was related to mental health concerns. In addition, the Board noted you were informed of your administrative separation and signed acknowledgment of your separation on 2 June 1995. Finally, in order to qualify for medical retirement there would have to be evidence of unfitness, records to show you were unable to perform the duties of your office, grade, rank or rating as a result of a qualifying disability condition. In denying your request for a disability discharge, the Board observed that there were no findings that you were unable to perform your duties; in fact, there was ample evidence of the contrary. The Board noted the command had your immediate supervisors write statements regarding your performance on 23 May 1995. Your supervisors noted that you were an “excellent worker who needs very little supervision,” “a hard worker and operator,” and that you had “no problem performing [your] duties effectively.” However, they also noted you “stated that [you] had no desire to lose the weight and won’t try,” and that they believed you did “not want to stay in the Corps and is using weight to get out.”

As a result, the Board concluded the preponderance of the evidence does not support a finding that you were unfit for continued naval service at the time of your separation. 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,

1/30/2024

