



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

█
Docket No. 8615-23
Ref: Signature Date

█
█
█
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 30 November 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, to include the Kurta memo.

A review of your record shows that you enlisted in the Navy and commenced active duty on 22 August 2007. On 5 May 2014, you were hospitalized at Walter Reed Army Medical Center for post-traumatic stress disorder (PTSD) and depression. You underwent a Physical Evaluation Board (PEB) and were ultimately discharged on 25 February 2015 and transferred to the Temporary Disability Retirement List (TDRL). You underwent a periodic physical examination while you were on TDRL and, upon that examination, the PEB determined that your disability warranted placement on the Permanent Disability Retirement List (PDRL) effective 4 April 2017.

In your petition, you contend you no longer suffer from any disability conditions. To support your claim you included a mental health evaluation written by a physician who provided treatment to you in 2014. The evaluation noted you had no current psychiatric diagnosis and that you do not take any psychiatric medication and deemed you fit for full military duties. You also included numerous letters from current and former Sailors advocating your return to service.

The Board carefully reviewed your petition and the material that you provided and disagreed with your rationale for relief. In reaching its decision, the Board noted you did not provide any evidence to support a finding that your placement on the PDRL was in error. The Board further noted you underwent a thorough examination in 2015, which deemed you unfit for continued military service due to a disability. Two years later, after an additional medical examination, the PEB confirmed that your disability was severe enough for placement on PDRL. The Board held that there was more than a preponderance of evidence that you had a disability that made you unfit for full military duties. While the Board took into consideration the more recent medical evaluation that determined you no longer rate a mental health diagnosis, it noted that this same evaluation documents you suffered from a mental health condition in 2014 that resulted in your hospitalization. Consequently, the Board determined there was insufficient evidence that placement on the PDRL was in error or unjust. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

In reviewing your application, the Board noted your intention to apply for entry into the armed forces. The Board encourages you apply for reentry at your nearest recruiting office, with your supporting medical evidence. Each service is authorized to grant a waiver for a preexisting medical condition should a condition no longer exist and the needs of the service require it.

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,

