



contended that, since the time of your separation, you had a long time to deal with these issues from your experiences, you eventually got your life together, and you now have a master's degree. The Board informed you by letter, dated 22 October 2023, that it denied your request for a service disability retirement but, as a matter of clemency, granted you relief in the form of changing the reason for your discharge set forth in your Certificate of Release or Discharge from Active Duty (DD Form 214) from misconduct due to drug abuse to Secretarial Authority. In denying your request for a service disability retirement, the Board observed that you did not provide any medical records contemporaneous to your service that demonstrated you exhibited signs of unfitness due to a disability condition. The Board found that you were in fact discharged due to your self-referral based on your use of illegal drugs, and that there was no evidence in his record, and you provided none, that you should have been referred to the Physical Evaluation Board for a fitness determination. The Board also found no other basis for granting any other relief that you requested.

In your request for reconsideration, you again request that your separation be changed from GEN to medical discharge. As before, the Board assumed your request for a "medical discharge" was a request for a service disability retirement. In support of your request for reconsideration, you have provided, ostensibly as new matter, a 25 February 1991 medical record relating to your treatment in order to, according to the document, "detoxify from marijuana." You also argued, as you had in your original petition, that you suffered a medical condition while you were in the service, you suffered post-traumatic stress disorder (PTSD), and that you were constantly attacked while in the service.

The Board carefully reviewed your petition and the new matter that you provided in support of your request for reconsideration, and 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 (DES) 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 that the preponderance of the evidence does not support a finding that you met the criteria for placement into the DES at any time in during your Navy service. At the outset, the Board determined that there is no evidence in your record, and you provided none, that supports a finding that you had any condition for which entry into the DES was appropriate. The new matter medical document that you provided does not support such a finding. To the contrary, that document supports your actual reason for discharge, which was accurately based on misconduct due to drug abuse as evidenced by self-disclosure. This Board's earlier decision directed the change in the narrative reason for your discharge as a matter of clemency, in order that you would avoid any stigma associated with drug abuse being noted on your DD Form 214, a document that you may need to show future employers, universities, and the like. In other words, your actual reason for discharge was due to your drug abuse self-referral, and there is no indication in your record that you had any unfitting condition within the

meaning of the DES during your service. With respect to the written contentions that you made in support of your request for reconsideration, including that you suffered a medical condition while you were in the service, you suffered post-traumatic stress disorder (PTSD), and that you were constantly attacked while in the service, the Board determined that it had previously considered these arguments in denying your original petition. The Board again found that these arguments were insufficient, based on the lack of any supporting evidence, to warrant the relief that you requested. Accordingly, in light of the foregoing, the Board denied your request for reconsideration in its entirety.

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,

2/5/2024

