



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

█
Docket No. 10287-23
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 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 11 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 and applicable statutes, regulations, and policies, to include the Kurta Memo.

You previously filed four petitions with the Board requesting military disability retirement. The Board denied all four requests; the last decision letter for case NR20230004329, listed in detail the reasons for the denials. The facts of your case remain substantially unchanged.

For this petition you, via counsel, again contend you were injured while on active duty in 2001; specifically, you injured your foot, making it difficult to fulfill your duties standing watch, a requirement of your billet, and that standing watch for numerous hours caused mental and emotional distress leading to Post-Traumatic Stress Disorder (PTSD). You further claim you were re-assigned to work in flight clothing due to your medical conditions and, although you received positive performance remarks for your 2005 evaluation, you were working outside of your rating of Boatswain mate. You listed as your new evidence witness statements from █, █, █, and █. However, these letters were reviewed by the previous Board for case █.

The Board carefully reviewed your petition and the material you provided in support of 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 observed that in order to qualify for military disability retirement, a medical provider refers a service member to the disability evaluation system (DES) if they believe the member has a condition that prevents them from continued service. In this process, the service member has to be found unfit; meaning there must be evidence the service member is unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. In reviewing your record, the Board determined there is insufficient evidence of unfitness. The Board noted your record shows you performed annual training and drill periods at [REDACTED] 0167 from 27 August 2003 until 11 June 2005. The Board again noted that, on 12 June 2005, you re-enlisted in the Navy Reserve for six years. Accordingly, the Board determined you were medically qualified to reenlist and did not have a condition in 2005 that made you unfit to continue to serve. There is no medical documentation from 2003 to 2007 to show you were being seen for any medical problems. Moreover, there is no evidence that you submitted a line of duty request during that time for a disability condition or that you were transferred to a rate outside of your billet for medical considerations. In addition, your evaluation covering 16 March 2004 to 15 March 2005 states you passed your physical readiness examination, you were within physical standards, and you successfully completed the Navy First Line Leadership Development program at [REDACTED] from 30 May 2005 to 10 June 2005. Finally, the record shows you were transferred on 16 November 2005 from [REDACTED] to [REDACTED], not due to a medical condition, but due to the disestablishment of [REDACTED].

In sum, in its review and liberal consideration of all the evidence, the Board did not observe any error or injustice in your naval records and affirmed its earlier decisions. Accordingly, given the totality of the circumstances, the Board determined that your current 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,

2/1/2024

[REDACTED]

Executive Director
Signed by: [REDACTED]