



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

██████████
Docket No. 10839-23
Ref: Signature Date

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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 14 November 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 25 August 2017 Under Secretary of Defense for Personnel and Readiness Memorandum (Kurta Memo), the 25 July 2018 Under Secretary of Defense for Personnel and Readiness Memorandum (Wilkie Memo), collectively the "Clarifying Guidance," the 4 April 2024 Under Secretary of Defense for Personnel and Readiness Memorandum relating to consideration of cases involving both liberal consideration discharge relief and fitness determinations (Vazirani Memo). The Board also considered the 12 August 2024 Advisory Opinion (AO) provided to the Board by a qualified Physician/Psychiatrist. You were provided a copy of the AO and Vazirani Memo and given an opportunity to submit matters in response within 30 days.

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 enlisted in the United States Marine Corps and began active duty on 28 August 1967. You deployed to ██████████ in January 1968 and served in over seven combat operations from February to August 1968. You were wounded in combat on 21

June 1968. You received fragment wounds to the chest and abdomen from an enemy mine and were treated at an in-country military hospital until 5 July 1968 when you were returned to duty. You continued to serve in combat until 16 August 1968 when you were treated for combat stress reaction. You were medically evacuated from [REDACTED] and were admitted to [REDACTED] on 6 September 1968. A medical evaluation board (MEB) report dated 25 September 1968 noted during your mental status exam that your “hand shook throughout the session, and [you] stuttered during the initial interview.” The medical providers diagnosed you with “Emotionally Unstable Personality, Chronic, Severe” finding that you suffered from “an inherent preexisting personality disorder” which rendered you unsuitable for any further service in the Marine Corps.

On 25 September 1968, you were informed of the findings, and you did not submit a rebuttal. Consequently, you were discharged from the service on 18 October 1968. Your DD Form 214, Certificate of Release or Discharge from Active Duty states an honorable characterization of service and “Unsuitability” as the narrative reason for separation.

You previously petitioned the Board requesting a medical discharge to reflect that you were medically disabled due to traumatic combat events from [REDACTED]. You claimed, via counsel, that you suffered from post-traumatic stress disorder (PTSD) which was diagnosed post-discharge and provided evidence and testimony in support of your contention. Specifically, you provided Department of Veterans Affairs (VA) documents showing you were hospitalized for PTSD from 19 January 1991 to 3 June 1991 due to your combat experience in [REDACTED] and a second hospitalization from 26 February to 23 April 1992 for PTSD rehabilitation. You argued that the personality diagnosis was inaccurate and that you should have been medically discharged for this condition.

For your previous petition (Docket No. 11918-92), the Board obtained an advisory opinion from the Specialty Advisor for Psychiatry, [REDACTED]. The AO noted upon review by the MEB at [REDACTED] there was no other diagnosis other than Personality Disorder, a condition that per service regulations does not rate as a disability and thus cannot be referred to a Physical Evaluation Board for military disability processing. You provided a detailed letter contesting the childhood history cited by the [REDACTED] in the report diagnosing you with personality disorder; however, the Board concurred with the AO and denied your application, finding the evidence submitted was insufficient to establish a material error or injustice.

For this petition, you request for the Board to grant medical retirement due to PTSD. You contend at the time of discharge you did not understand the benefits of a medical discharge and you accepted an honorable discharge given the political climate at the time. You included your VA medical records that were previously reviewed in the Board’s last decision.

Upon review, the Board 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. First, the Board concurred with the AOs that there was insufficient evidence that the MEB diagnosis of personality disorder was improper or in error. The Board

observed that the medical board report did provide documentation supporting the personality disorder diagnosis and there was an over twenty year gap between those records and the VA records diagnosing you with PTSD.

The Board also noted there were no records documenting medical care for any mental health condition from discharge until 1991. The Board observed that the 25 September 1968 Medical Board, the 1991 AO, and the 2024 AO each carefully and consciously considered all available evidence and ultimately concluded that there was insufficient evidence to support a finding that you had a ratable mental health condition at the time of separation.

In reviewing your record, the Board concluded the preponderance of the evidence does not support a finding that you met the criteria for unfitness as defined within the Disability Evaluation System at the time of your discharge. Despite its application of special and liberal consideration, the Board observed no evidence that you had any unfitting, ratable condition while on active duty. In its application of the Clarifying Guidance, the Board acknowledged your PTSD diagnosis. In accordance with the Vazirani Memo, the Board first applied liberal consideration to your assertion that your PTSD potentially contributed to the circumstances resulting in your discharge to determine whether any discharge relief is appropriate. After making that determination, the Board then separately assessed your claim of medical unfitness for continued service due to PTSD as a discreet issue, without applying liberal consideration to the unfitness claim or carryover of any of the findings made when applying liberal consideration.

With respect to its analysis of your request for a service disability retirement, the Board observed there is insufficient evidence that you had an unfitting, ratable condition while you were on active duty. At the outset, the Board acknowledged that it substantially concurred with the findings of the AOs, which it determined them to be reasonable and based on substantial evidence in the record. The Board thus found insufficient evidence to contravene the opinions of multiple qualified medical professionals, whose findings and opinions remain consistent from 1968 to present. 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,

1/13/2025

