



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

█  
Docket No. 42-24  
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 18 April 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 Navy on 18 June 2007. After completing initial training, you were released from active duty and transferred to the Naval Reserve.

In 2009, you were mobilized and deployed in support of █ from 27 September 2009 until 28 October 2010. Per your evaluation report ending on 21 October 2010, you were selected █ Junior Petty Officer of the Quarter for the 3rd Quarter.

On 7 April 2011, you underwent a medical assessment and were found fit for fully duty. You were then mobilized and deployed in support of [REDACTED] from 9 May 2011 until 21 May 2012. After completion of your required active service, you were discharged on 22 August 2012 and assigned a reentry code of RE-R1.

For this petition, you request medical retirement and combat related special compensation (CRSC) for the conditions of Post-Traumatic Stress Disorder (PTSD), migraines, asthma, tinnitus, and Lumbago. You argue that, when you were discharged in 2012, you had incurred medical conditions that warranted a medical evaluation board (MEB) and medical retirement from the military. You included rating decisions from the Department of Veterans Affairs (VA) from 2015 and 2022 to support your contention. You also request a Navy Reserve Discharge Order certificate.

The Board carefully reviewed your petition and the material that 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. These included, but were not limited to, your contention that you deserve a medical discharge because at the time you were discharged you suffered from a mental health condition and other qualifying disability conditions.

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 concluded the preponderance of the evidence does not support a finding that you met the criteria for unfitness as defined within the DES.

The in-service medical records provided did not show you were treated for a mental health condition. On 22 May 2012, medical found you physically qualified to demobilize and found you did not have any “acute issues.” You also received positive performance remarks in your evaluation reports noting that you were able to successfully fulfill your duties of your rank and billet. In addition, a 6 February 2014 medical record noted you were a civilian working in [REDACTED] who successfully completed a physical health assessment in order to remain current in the Individual Ready Reserves. Moreover, your reentry code of RE-R1 documents the service found you eligible, and recommended you for preferred reenlistment. The Board noted you did not provide any documentation that you were denied re-enlistment due to any medical conditions. Finally, the Board was not persuaded by your VA evidence since eligibility for compensation and pension disability ratings by the VA is tied to the establishment of service connection and is manifestation-based without a requirement that unfitness for military duty be demonstrated.

In light of the foregoing standard applicable to the DES, the Board did not discern any facts that would support you being eligible for a disability retirement. Rather, the evidence of record demonstrates that you were discharged after successfully completing your mobilization, and that you were physically qualified to continue in the Naval Reserve. In sum, in its review and liberal consideration of all the evidence, the Board did not observe any error or injustice to support your request for medical retirement.

Based on the Board findings regarding your discharge from the Navy, the Board determined you do not statutorily qualify for CRSC. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

With respect to your request for a Navy Reserve Discharge certificate, the Board found that you had not exhausted all administrative remedies available. You must first submit your request to Navy Personnel Command (NPC) by contacting NPC at the My Navy Career Center Customer Service at 1-833-330-6622 or e-mail at [askmncc@navy.mil](mailto:askmncc@navy.mil).

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,

5/8/2024

