



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

█  
Docket No. 1147-24  
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 27 June 2024, has carefully examined your current request. The names and votes of the panel members 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo).

You previously applied to this Board and were denied relief on 3 October 2019. The facts of your case remain substantially unchanged.

In your original petition, you sought to be placed on the Permanent Disability Retired List (PDRL) because you believed you were erroneously removed from the TDRL despite being hospitalized for hyperglycemia and being required to use an insulin pump. In denying your requested relief, the Board explained:

First, the Board concluded the PEB findings regarding your diabetes condition is supported by the medical evidence contained in the 12 May 2011 TDRL periodic examination report. In that report, you were documented as working out five times weekly despite your diabetes condition. In the Board's opinion, this does not support a higher rating of 40% for your diabetes since your ability to work out five times a week does not meet the requirement that your diabetes condition requires

you to avoid strenuous and recreational activities. Therefore, the Board concluded the PEB accurately rated your diabetes condition at 20% based on your ability to complete strenuous activities on a regular basis.

Second, the Board determined that the PEB finding that your depressive disorder was not unfitting was also supported by the 12 May 2011 TDRL periodic examination report. In that report, it documented that you were not receiving treatment for your mental health condition or taking medication. It also stated that you desired a return to active duty. In the Board's opinion, this was strong evidence of fitness for active duty since you did not appear to suffer from a mental health related occupational impairment significant enough to require treatment or medication. The fact your conditions may have worsened after the 2012 PEB decision did not persuade the Board the PEB decisions were erroneous since the PEB was required to make its findings based on your disability symptoms and impairment in 2012. The Board decided that any worsening of your service connected disability symptoms after your discharge in 2012 falls under the purview of the Department of Veterans Affairs.

In your request for reconsideration, you again request that you be placed on the PDRL, and to have your narrative reason for separation, separation program designator, and separation type all reflect that you received a permanent disability retirement. You also ask to have your separation date changed from 2006 to 2011. In support of your request for reconsideration, you argue that you have provided volumes of medical records for care administered at local emergency room departments, hospitalizations, general care as well as records at an inpatient psychiatric treatment facility. You also provided a written statement in which you provided background where your boyfriend assaulted you in 1999. You also recounted a situation that occurred during your first duty station, in █ where you allege that your staff sergeant harassed you, which you reported to the chaplain and your lieutenant colonel. According to your statement, your command removed you from the situation and when you returned the staff sergeant no longer worked in that command. You also explained that, in 2004, your master sergeant began to knock on the door to your quarters, but you would never answer the door. You believe that he had a hand in you receiving orders that resulted in you not deploying to █

The Board carefully reviewed your petition and the matter that you provided in support of your request for reconsideration, and it 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. In reaching its decision, the Board did not discern any new matter that was sufficient to overcome its prior decision denying your request to be placed on the PDRL. The Board was sympathetic to the difficult circumstances that you endured during your service, but despite these difficulties, the Board determined the evidence presented was insufficient to change its prior decision. Specifically, the Board affirmed the rationale from its prior decision. With respect to your request to change your discharge date to 31 July 2011, the Board found that you provided an insufficient basis for it to award you such relief. The Board noted your DD Form 214 accurately documents your release from active duty on 31 July 2006. In sum, the Board found the documents you provided, as well as your written

arguments, were insufficient to support the relief that you requested. 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,

7/15/2024

