



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

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Docket No. 1511-24
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.

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 23 May 2024, has carefully examined your current request. 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 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo).

You previously filed five petitions with the Board requesting military disability retirement. The board denied all five requests; the last being for case NR20230010287 on 1 February 2024. The facts of your case remain substantially unchanged. The Board noted the new evidence you provided in support of your current reconsideration request.

For this petition you 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 provided evidence of Department of Veterans Affairs (VA) medical

records showing you were seen for dermatology in 2002 and mental health in 2004, along with witness statements.

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 military disability benefits.

The Board noted your record shows you performed annual training and drill periods at [REDACTED] from 27 August 2003 until 11 June 2005. 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 at that time that made you unfit to continue to serve. You provided documentation that you were being seen at the VA for medical conditions; however, there is still no evidence that these conditions preventing you from fulfilling the duties of your office, grade, rank or rating as a result of these conditions. Moreover, there is no evidence 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.

Instead, there is sufficient evidence of the opposite; that you were able to continue to serve and perform your rank and grade obligations. For example, your evaluation covering 16 March 2004 to 15 March 2005 states you passed your physical readiness examination, thus you were within physical standards. Furthermore, you successfully completed the Navy First Line Leadership Development program at [REDACTED] from 30 May to 10 June 2004. 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 short, contrary to the witness statements provided, there is no indication in your record that your medical providers or command leadership believed you had a qualifying disability condition that prevented you from continuing to serve. 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. 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,

6/28/2024

[REDACTED]

Executive Director

Signed by: [REDACTED]