



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

█
Docket No. 1719-24
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.

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 1 August 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.

A review of your record shows that you entered active duty in the United States Marine Corps on 24 October 2016. On 9 April 2018, you were diagnosed with Adjustment Disorder with Mixed Anxiety and Depressed mood. On 8 June 2018, you were counseled that your diagnosis was not considered a disability, and that you were being processed for administrative separation in accordance with paragraph 6203.2 of the Marine Corps Separations Manual. Ultimately, on 17 August 2018, you were discharged and received a General (Under Honorable Conditions) characterization of service. Your Certificate of Release or Discharge from Active Duty (DD Form 214) stated "condition not a disability" as the narrative reason for separation.

Post-discharge, you petitioned the Naval Discharge Review Board (NDRB) to upgrade your discharge. On 2 June 2022, the NDRB upgraded your discharge to Honorable, noting there were no negative marks in your record and that your proficiency and conduct marks were within the standards of Honorable.

For this petition, you request a medical discharge and to remove the “condition not a disability” language from your DD Form 214. You contend you had depression, anxiety, and schizophrenia while on active duty and are now rated at 100 percent by the Department of Veterans Affairs (VA). To support your petition, you included VA medical records.

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.

The Board further noted in order to qualify for a medical discharge, a medical provider must refer a service member to a physical evaluation board (PEB) if they believe the member has a disability that prevents them from continued service. Under Secretary of the Navy Instruction 1850.4E, certain medical conditions are not deemed disabilities and do not warrant referral to the PEB. The Board noted you were medically evaluated and diagnosed by qualified mental health professionals while on active duty and it was determined that your condition was not a disability warranting referral to the disability processing system. The fact the VA later rated you for a service connected disability was not persuasive to the Board 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. Absent substantial evidence to the contrary, the Board determined the presumption of regularity applies in your case.

Therefore, in its review and liberal consideration of all of 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,

8/14/2024

