



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

█  
Docket No. 1930-24  
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 July 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 1 December 2014. In September 2015, following a suicidal ideation, you were medically evacuated to Naval Medical Center (NMC) █ and diagnosed with adjustment disorder. A psychologist wrote a recommendation of administrative separation, on 8 January 2016, based on the adjustment disorder diagnosis. You were subsequently counseled, on 26 April 2016, that your diagnosis was not considered a disability, but that it could be a disqualifying factor for further naval service. On 9 June 2016, another psychologist from NMC █ wrote a recommendation for administrative separation based on the diagnosis of adjustment disorder with depressed mood. The memorandum noted you were “non-compliant with multiple medication regimens...non-compliant with psychotherapy recommendation,” and that you “missed multiple mental health appointments since being followed by █ mental health.”

Ultimately, on 31 August 2016, you were discharged and received an Honorable characterization of service based on a “condition, not a disability.”

For this petition, you contend your narrative reason for separation is erroneous because the Department of Veterans Affairs (VA) service-connected your mental health condition and awarded you a 100% disability rating. To support your claim, you included a letter from the VA stating you are entitled to individual unemployability due to the service connected mental health condition.

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 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. Secretary of the Navy Instruction 1850.4E states certain medical conditions are not deemed disabilities and do not warrant referral to the PEB. Moreover, the Board found that it relies on a presumption of regularity to support the official actions of Navy personnel and, in the absence of substantial evidence to the contrary, will presume that Navy personnel have properly discharged their official duties. The Board concluded qualified medical personnel did not consider your condition a disability warranting referral to the disability processing system. Therefore, in light of the foregoing standards, the Board did not discern any facts that would support you being eligible for a medical discharge. The fact you received a post-discharge rating from the VA for a service connected disability condition did not persuaded the Board that an error or injustice exists with your record. The Board does not find such awards to be persuasive, because the VA does not make determinations as to fitness for service as contemplated within the service disability evaluation system. Rather, 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. 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,

8/2/2024

