



**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. 2274-24  
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.

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 8 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.

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 enlisted in the Navy and entered active duty on 20 January 1967. In 1979, you were seen at Naval Hospital █ and diagnosed with Depression. You underwent treatment for your mental health condition; however, due to recurring episodes you were referred to a Physical Evaluation Board (PEB). On 3 October 1986, the PEB found you Unfit for severe depression, recurrent at a 30% rating, warranting placement on the Temporary Disability Retirement List (TDRL). You accepted the finding and were placed on TDRL on 30 May 1987. After your second Periodic Physical Examination, on 10 October 1990, the Physical Evaluation Board awarded you a 10% rating for depression, warranting removal from the TDRL. You were retired 1 January 1991 with over 20 years of creditable service.

In 2014, you petitioned this Board to change your unfitting condition for your 3 October 1986 Informal PEB to Dystonia. You argued you had been prescribed the medication Lithium Carbonate starting in 1981 and, as a result of your long-term exposure to this medication, you developed Dystonia, a neurological movement disorder. You claim you were starting to experience symptoms from Dystonia on active duty and thus should have been placed on TDRL for this condition. The Board denied this request, noting there was insufficient evidence in your record to support that Dystonia was an unfitting condition prior to your discharge.

For this petition, you request placement on the Permanent Disability Retirement List (PDRL) at a 70% rating, retroactive payment of all pay and allowances, or to direct the Navy to refer all conditions to the Disability Evaluation System (DES) to determine your overall rating. You argue it was in injustice for you to be removed from the TDRL, at less than a 30% rating, as you continue to experience significant renal issues as a result of the Dystonia. As new evidence, you included progress notes from [REDACTED] and two letters from your current civilian physicians.

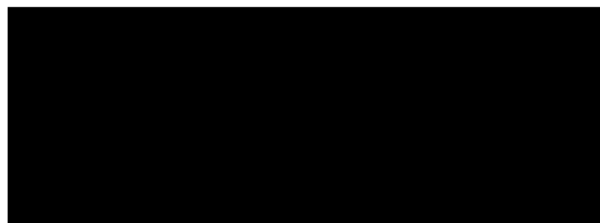
The Board carefully reviewed your petition and the material that you provided in support of your petition and disagreed with your rationale for relief. In keeping with the letter and spirit of the Kurta Memo, the Board gave liberal and special consideration to your record of service, and your contentions 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.

The Board noted that the evidence you presented states the Dystonia, or tardive dyskinesia, developed as a result of long term exposure to the medication; contradicting your argument that the condition was unfitting in 1986 when you underwent your PEB. Moreover, the medical evidence documented a long treatment record for mental health concerns and noted that your symptoms would recur when attempts were made to decrease your anti-depressant medication. Thus, the Board again determined the PEB made a reasonable decision, based on the credible information available at the time, regarding your diagnosis and determined the evidence you presented was insufficient to change its findings. Consequently, the Board found there was no error or injustice warranting a correction to your record. 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,

9/9/2024

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