



**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. 2797-24  
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 14 November 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. In addition, the Board considered a 12 August 2024 Advisory Opinion (AO) from a Licensed Clinical Psychologist. Although you were provided an opportunity to respond to the AO, you chose not to do so.

A review of your record shows that you enlisted in the United States Marine Corps and began active duty service on 4 January 2011. On 15 October 2012, you were found eligible but not recommended for promotion to corporal for November 2012 due to a lack of maturity. On 1 August 2014, you were discharged from active duty and transferred to the United States Marine Corps Reserve (USMCR). Your Certificate of Release or Discharge from Active Duty (DD Form 214) states an Honorable characterization of service, "Reduction in Force" as the narrative reason for separation, and a re-entry code of RE-1A. On 31 August 2018, you were discharged from USMCR.

For this petition, you request medical retirement due to post-traumatic stress disorder (PTSD), traumatic brain injury (TBI) symptoms, and sexual harassment. In support of your application, you included Department of Veterans Affairs (VA) documents showing the VA has rated you for PTSD.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Kurta Memo. These included, but were not limited to, your desire for a disability discharge and contentions that you deserve a medical discharge because you suffered from a condition while in-service. In addition, you checked the "Reprisal/Whistleblower" box on your application. Based on your assertions that you incurred a mental health condition during your military service, a qualified mental health professional reviewed your request for correction to your record and provided the Board with an AO. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition while in military service, or that he exhibited any symptoms of a mental health condition.

The AO concluded, "There is insufficient evidence that he should have been medically boarded and separated, instead of traditionally separated."

Upon review, the Board 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. First, the Board concurred with the AO that there was insufficient evidence that you suffered from a mental health condition in service. The Board noted, at discharge, you were assigned a RE-1A reentry code; indicating you were eligible and recommended for reenlistment. Second, 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. There is no evidence in the record that a medical provider believed you had an unfitting condition. Therefore, the Board did not observe any error or injustice in your naval records and did not discern any facts that would support you being eligible for a medical discharge. 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,

1/16/2025

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Executive Director

Signed by:

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