



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. 2953-24
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 your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 1 August 2024. The names and votes of the panel members 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.

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 Marine Corps and commenced active duty on 12 August 2012. On 4 November 2011, you were issued a written counseling discussing your inability to adapt to the military environment. On 7 November 2002, you were notified of the initiation of administrative separation processing and his rights in connection therewith due to adjustment disorder with suicidal ideation. On 8 November 2002, you were discharged with an uncharacterized entry level separation due to entry level performance and conduct.

In your petition, you state that you qualify for medical coverage from the Department of Veterans' Affairs (VA). You also request to have your uncharacterized discharge changed to General (Under Honorable Conditions) due to injuries that you suffered in basic training as well as post-traumatic stress disorder. The Board noted you checked the "PTSD" and "Other Mental

Health” boxes on your application but chose not to respond to the Board’s request for supporting evidence of your claims.

The Board carefully reviewed your petition and disagreed with your rationale for relief. In reaching its decision, the Board observed that, in order to qualify for military disability benefits through the Disability Evaluation System (DES) with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; the member’s disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting.

In reviewing your record, the Board concluded the preponderance of the evidence does not support a finding that you met the criteria for unfitness as defined within the disability evaluation system at the time of your discharge. In reaching its decision, the Board observed that there is no evidence in your service records, and you did not provide any, demonstrating that while you were in service you had an unfitting condition within the meaning of the DES. The Board noted that there is no indication that anyone in your chain of command observed that you were unfit to perform your duties due to any medical conditions. Rather, it is clear that the proximate reason for your discharge was your failure to adapt to the military environment. Further, the Board was not persuaded by your contention that you qualify for VA benefits since the VA is a separate government agency whose eligibility decisions have no bearing on the issuance of Department of Navy characterizations of service. Finally, the Board noted you were discharged within your first 180 days of active duty service. Therefore, service regulations direct the assignment of an uncharacterized entry level separation. While there are exceptions to policy in cases involving misconduct or extraordinary performance, the Board determined neither applies in your case. Thus, 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,

8/22/2024

