



**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. 4998-24  
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.

A three-member panel of the Board, sitting in executive session, considered your application on 10 October 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 Navy and commenced active duty on 16 October 2017. In your application, you provided a medical record, dated 29 January 2019, that reflects you sought treatment for a concussion without loss of consciousness. You also provided a medical record, dated 8 November 2021, which reflects that you reported you were feeling depressed and distressed. Your official military personnel file (OMPF) does not contain many documents relating to your discharge but, according to a performance evaluation, it appears you were convicted by a court-martial and discharged with a General (Under Honorable Conditions) (GEN) characterization of service. Your OMPF also contains a Certificate of Release or Discharge from Active Duty (DD Form 214) dated which reflected your characterization of service as Honorable, but then it appears you were issued another DD Form 214, on 15 March 2022, which reflected your discharge characterization as GEN. According to

your DD Form 214, your rate and paygrade at the time of your discharge was Aviation Ordnanceman Third Class/E-4.

In your petition, you request to be placed on the permanent disability retired list (PDRL). In support of your request, you assert that you suffered post-traumatic stress disorder (PTSD) as a result of traumatic brain injury (TBI). You claim that you suffered two TBIs while you were in service. You also provided a copy of a claim form for Traumatic Servicemembers Group Life Insurance (TSGLI). You did not provide any explanation as to the status of any claim for TSGLI that you made<sup>1</sup>. In your TSGLI claim form, you asserted you suffered TBI, and you were in a coma.

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 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 DES at the time of your discharge. After a thorough review of your records and the documents that you provided for consideration, the Board concluded the presumption of regularity applies. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. In your case, there is no indication that, despite your medical treatment while you were in service, any medical provider recommended that you be reviewed by a medical evaluation board. Similarly, the Board did not observe any evidence that anyone in your chain of command provided any non-medical analysis describing your perceived inability to perform the duties of your rate while in service. Further, you did not provide any evidence that, for example, you were in fact referred to a medical evaluation board, or that you should have been so referred. In such circumstances, the Board presumed this is because you were not, in fact, perceived to have been medically unfit within the meaning of the DES. In fact, the Board further observed, that the proximate reason for your discharge was as a result of misconduct, which was apparently evidenced by a conviction at court-martial. Finally, even assuming you were processed within the DES for an analysis of whether you had an unfitting condition and administratively processed due to misconduct, with limited exceptions, the administrative processing for misconduct would have taken precedence over the medical disability processing. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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<sup>1</sup> The Board took no action on your TSGLI claim since you provided no evidence that you had exhausted your administrative remedies by applying to the TSGLI Board. Therefore, the Board only considered your request to be placed on the disability retirement list.

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,

11/23/2024

