



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

██████████
Docket No. 6194-24
Ref: Signature Date

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Dear ██████████

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 26 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 and applicable statutes, regulations, and policies. In addition, the Board considered the 11 October 2024 Advisory Opinion (AO) provided to the Board by a Licensed Clinical Psychologist and your response to the AO.

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 commissioned and began active duty service in the Marine Corps on 11 September 2017. In October 2017, you were seen in the Emergency Department at ██████████ for depression symptoms and a physician recommended that you be placed on medical hold for further evaluation by primary and mental health providers until cleared for return to duty. At your follow-up, you were diagnosed with Adjustment Disorder with Depressed mood. You started individual therapy sessions and did not return to training. On 9 January 2018, the Commanding Officer (CO) of The Basic School sent you a formal order "to complete the Basic Officer Course...to which you have been assigned." In response, you notified the command of your refusal to train; as re-engagement would likely result in a return of

depressive symptoms. You acknowledged that you could be subject to non-judicial punishment (NJP) as a result. In March 2018, you underwent a separation physical examination and found qualified for separation; the examiner stated you did not meet the criteria for post-traumatic stress disorder. On 12 April 2018, you underwent NJP for refusing an order and conduct unbecoming an officer and a gentleman. You did not appeal the punitive letter of reprimand or the NJP and did not submit a statement for inclusion in your record. In May 2019, you requested to resign your commission in lieu of further processing for administrative separation. On 14 August 2018, you were admitted for hospitalization following a suicidal ideation. You were evaluated by a military behavioral health provider who stated “there is no evidence of mental defect, emotional illness, or psychiatric disorder of sufficient severity to warrant disposition through military medical channels... is mentally responsible, can distinguish right from wrong, and...is psychologically cleared for any administrative action deemed appropriate by Command and the separation authority.”

In September 2018, you requested a mental health evaluation by another military psychiatrist and you were diagnosed with Major Depressive Disorder (MDD), single, severe. On 21 December 2018, you were discharged. Your Certificate of Release or Discharge from Active Duty (DD Form 214), states “General (Under Honorable Conditions)” as your characterization of service and “Misconduct (Other)” as the narrative reason for separation

For this petition, you request a medical discharge stating that you were improperly denied processing through the Disability Evaluation System (DES) at the time of separation and that you had a medical condition that made you unfit for continued military service. You further contend that your characterization of service was unjust as you had an onset of depression, anxiety, and suicidality while on active duty that prevented you from continued training.

Based on your assertions that you incurred a mental health condition (MHC) 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:

Petitioner was appropriately referred for psychological evaluation during his enlistment and properly evaluated during an inpatient hospitalization. His adjustment and depressive disorder diagnoses were based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluations performed by the mental health clinicians. More weight has been given to the Adjustment Disorder diagnosis over the one-time MDD diagnosis. The clinician who determined that the Petitioner was experiencing an Adjustment Disorder had the experience of knowing the Petitioner over the course of several months of treatment, as opposed to the one-time evaluation.

Petitioner has been granted service connection for a mental health condition. There is no evidence of a diagnosis of PTSD or of a traumatic precipitant that would meet criteria for PTSD.

Unfortunately, available records are not sufficiently detailed to provide a nexus with his misconduct. Although the Petitioner may have experienced anxiety

regarding training due to his mental health symptoms, there is no indication that his symptoms would not have responded to treatment. Rather, there was evidence that his symptoms improved with time and treatment.

There was no condition identified that warranted referral for a medical separation. The Petitioner was evaluated repeatedly and there was no evidence of impaired judgment. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, "it is my clinical opinion that there is insufficient evidence of a diagnosis of PTSD. There is in-service and post-service evidence from the VA of another mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition."

In response to the AO, you provided additional evidence in support of your case. After reviewing your rebuttal evidence, the AO remained unchanged.

The Board carefully reviewed your petition and the material 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 his/her office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if his/her 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 you met the criteria for unfitness as defined within the DES at the time of your discharge. In particular, the Board observed you failed to provide evidence you had any unfitting condition within the meaning of the DES. Applying a presumption of regularity, the Board determined that if you actually had a medical condition, including a mental health condition, under circumstances that warranted your referral to a medical board, you would have been so referred.

The Board determined that, while there was evidence you had a mental health condition (MHC) during your military service, the Board found insufficient evidence to establish that your MHC was an unfitting condition. The Board noted while you were in-service and treated for over a year, no medical provider found that your MHC amounted to a referral to the DES. You were continuously diagnosed with adjustment disorder, a condition that does not warrant referral to the physical evaluation board by service regulation. You were diagnosed with Major Depressive Disorder in September 2018, after a one-time evaluation, three months prior to your discharge. Consequently, the Board concurred with the AO in giving more weight to the adjustment disorder diagnosis by the clinician who had treated you for the prior 11 months.

With respect to your reliance on post-service findings by the VA, the Board noted the VA does not make determinations as to fitness for service as contemplated within the service DES. 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.

As a result, the Board found insufficient evidence of error or injustice to support a disability discharge or retirement in your case. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

With respect to your characterization of service, the Board noted you did not exhaust all administrative remedies and must submit your request to the Naval Discharge Review Board. Board regulations require Petitioners exhaust their administrative remedies prior to submitting their applications to this Board.

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

