



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. 7220-24
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 Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 31 October 2024, has carefully examined your current request. 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 to include the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo).

You previously applied to this Board to have your narrative reason for separation changed to a disability discharge. This Board denied your request on 26 September 2019. The facts of your case remain substantially unchanged.

The Board carefully considered your current arguments that you deserve a change to your narrative reason for separation to disability. You assert that your bladder control condition was unfitting and should have been the basis for your discharge. As new material evidence, you included a Department of Veterans Affairs (VA) rating decision, dated 18 October 2021, in which the VA service-connected urinary incontinence with a rating of 40%.

After thorough review, the Board disagreed with your rationale for relief. In reaching its decision, the Board observed that in order to qualify for a disability discharge, a medical provider refers a service member to the physical evaluation board (PEB) if the provider thinks

the member has a condition that prevents them from continued service. In this process, the service member has to be found unfit; meaning there must be evidence the service member is unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition.

In reviewing your record, the Board concluded the preponderance of the evidence does not support a finding that you met the criteria for unfitness due to your bladder condition. First, there was only one treatment record for your bladder condition which did not indicate a referral to a medical board was appropriate. Second, the Board also concluded that your condition likely existed prior to your entry into the Marine Corps based on your treatment history, which documented you had a history of incontinence and the fact that your condition arose less than two weeks on active duty. Third, the Board concluded you were properly discharged for inaptitude based on your inability to perform routine military tasks. While your bladder control issues were included in your Aptitude Board record, the Board determined that the primary reason for your release from the Marine Corps was your inability to adapt to the military environment and not your bladder issues. Fourth, the Board was not persuaded by your VA evidence since 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 continued to find insufficient evidence of error or injustice to warrant a change 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,

11/24/2024

