



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

██████████
Docket No. 7614-24
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 the Board waived the statute of limitation and considered your case on its merits in the interest of justice. A three-member panel of the Board, sitting in executive session, considered your application on 21 November 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.

A review of your record shows that you enlisted in the Marine Corps and commenced active duty on 1 June 2006. During your enlistment, you served in Iraq in 2008-2009, after which you were awarded an Iraq campaign medal. In addition, during your enlistment, you were awarded a variety of personal and unit awards, to include the Navy and Marine Corps Achievement Medal. You were also awarded several letters of appreciation and a meritorious mast. On 30 September 2017, you were issued your final fitness report. According to the directed comments in that fitness report, you served in an "an exemplary manner" and that you "can be counted on to handle most complex task with no supervision." On that same day, 30 September 2017, you were separated from service at your end of active obligated service and assigned an Honorable characterization of service and an RE-1A reentry code; which meant that you were eligible for reenlistment.

In your petition, you request to have you naval record reflect that you were medically retired from the Marine Corps. In support of your request, you contend that while you were on active duty you were told that if you spoke about your post-traumatic stress disorder (PTSD) and injuries, your career would be over. You further assert that, after you went to Iraq, you knew something was wrong but you refused to talk about it. In light of your assertion that you have

PTSD, this Board sent you a letter on 25 July 2024 requesting that you provide medical or other materials that supported your claim; however, you did not provide a response.

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. The Board observed that there was no evidence that you had any unfitting condition while on active duty. On this point, the Board found insufficient 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. There is no indication in any available documents that anyone in your chain of command observed that you were unfit to perform your duties due to any medical or mental health conditions. In fact, available performance records demonstrated that you were fully capable to serve and recommended for reenlistment; which is inconsistent with being unfit for service. In sum, as described above, to be eligible for a service disability retirement, a service member must have conditions that have been medically determined to be unfitting at the time of service. Here, there is no evidence that you were diagnosed with potentially unfitting medical or mental health conditions during your naval service despite the Board's specific request for such documentation from you. Additionally, there is no indicia to suggest that you were otherwise incapable of performing your duties. In your case, the proximate reason for your discharge was the end of your service obligation; at which point you chose not to reenlist. 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
