



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

██████████
Docket No. 9149-24
Ref: Signature Date

████████████████████
████████████████
████████████████████
██████████████

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 waived the statute of limitations and considered your case on its merits pursuant to the 25 August 2017 guidance from the Under Secretary of Defense for Personnel and Readiness (USD (P&R))(Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 24 April 2025. 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 Kurta Memo and the 4 April 2024 clarifying guidance from the USD (P&R) regarding cases involving both liberal consideration discharge relief requests and fitness determinations (Vazirani Memo). The Board also reviewed the 12 March 2025 advisory opinion (AO) from a qualified medical professional. Although you were afforded an opportunity¹ to submit a rebuttal, you chose not to do so.

A review of your record shows you enlisted in the Navy and commenced active duty on 14 December 2006. On 14 August 2008, a psychiatrist diagnosed you with Adjustment Disorder with Mixed Anxiety and Depressed Mood and Alcohol Abuse (episodic). Following your initial diagnosis, your mental health was routinely evaluated, as described more fully in the 12 March 2025 AO. As discussed in the AO, your diagnosis of Adjustment Disorder continued and your mental health providers, noting your anxiety-based symptoms appeared exclusively linked to

¹ The AO was mailed to the address above and emailed to your provided email address on 13 March 2025. When no response was provided, your case was prepared for presentation to the Board.

your service and were “highly situationally based,” recommended administrative separation. Although your record is incomplete in that it does not contain your administrative separation documentation, a review of your Certificate of Release or Discharge from Active Duty (DD Form 214) indicates the separation authority directed your discharge by reason of condition, not a disability, with an Honorable characterization of service and assignment of a RE-4 reentry code. On 4 November 2009, you were so discharged.

In your petition, you request your narrative reason for separation be corrected to reflect “medical retirement” in order to accurately reflect your medical condition and “accurately represent [your] condition and ensure [your] discharge status aligns” with the Department of Veterans Affairs (VA) determination and assignment of a 100% disability rating. Further, you contend you should not have been administratively separated without undergoing a medical board. Additionally, you assert the VA determined you had other service-connected disabilities, including Major Depressive Disorder and Traumatic Brain Injury (TBI)², which have “rendered [you] 100% disabled and permanently incapacitated.” In support of your requested relief, you submitted various VA documents for consideration by the Board.

In order to assist in reviewing your petition, the Board obtained the 12 March 2025 AO from a qualified medical professional. The AO determined that, at the time of discharge, the preponderance of available objective clinical evidence did not support your contention you suffered from a medical or mental health condition that prevented you from reasonably performing the duties of your office, grade, rank, or rate or that warranted referral to the Disability Evaluation System (DES) for adjudication for fitness for continued service. Further, the AO determined your diagnoses were established and validated repeatedly over the course of continued mental health and substance abuse treatment by several licensed and experienced mental health professionals; all who consistently found you fit for continued service. Based on review of the available objective clinical and non-clinical evidence, the AO noted you successfully executed the full range of responsibilities of your rate and rank; including while being treated for Adjustment Disorder and Alcohol Abuse.

The Board carefully reviewed all of your contentions and the material you submitted in support of your petition but disagreed with your rationale for relief. In keeping with the letter and spirit of the Kurta Memo, the Board gave liberal and special consideration to your record of service. In reaching its decision, the Board, substantially concurring with the AO, observed there was insufficient evidence you had an unfitting condition while you were on active duty such that you should have been placed into the DES. The Board noted that, in order to qualify for military disability benefits through the DES with a finding of unfitness, a service member must be unable to perform the duties of his 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 of 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. However, the

² The AO noted -- and the Board concurred -- that your in-service medical records do not contain a TBI diagnosis or history of you seeking medical attention for any symptoms that could be described as residual symptoms of TBI.

Board, relying on the AO, found insufficient evidence of an error or injustice in the determination your mental health diagnosis of Adjustment Disorder did not warrant referral to a medical evaluation board.

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.

In conclusion, in its review and liberal consideration of all of the evidence and its careful application of the Kurta and Vazirani Memos, 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,

5/7/2025

