



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. 10089-24
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 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.

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 20 February 2025, 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, 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 requesting medical retirement and were denied on 23 August 2018. The summary of your service remains substantially unchanged from that addressed in the Board's most recent decision. With your reconsideration request, you included the Department of Veterans Affairs (VA) rating contending there is evidence that your mental health condition was aggravated while on active duty.

Upon review, the Board disagreed with your rationale for relief. First, the Board noted you did not meet accession standards and would not have been able to enlist if you had appropriately disclosed your February 2009 diagnosis and treatment. The Board was unwilling to base a finding of error or injustice on a condition that plainly existed prior to your entry and was clearly disqualifying for enlistment. Second, regardless of the evidence you fraudulently enlisted, the Board noted your symptoms in October 2009 were similar to the ones you experienced six months prior; consequently, the Board found insufficient evidence that your condition had been aggravated by your active-duty service. Finally, the Board noted the Department of Veterans

Affairs (VA) does not make determinations as to entitlement to placement on the military disability retired list. The Board found the PEB determination that your condition existed prior to service and was not aggravated by your service to be supported by substantial medical evidence in your case. In sum, in its review and liberal consideration of all the evidence, 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,

3/12/2025

