



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. 10513-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your request for reconsideration of the denial of your previous petition on 6 March 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.

As it set forth in its letter to you of 7 November 2022, a review of your record shows that you enlisted in the Marine Corps Reserve and commenced a period of active duty for training in January 1990. Thereafter, you were released to the Reserve. According to your petition, in 1997, you left the reserve to pursue employment as a police officer. Then, according to your petition, you reenlisted in the Marine Corps Reserve in 1999. Eventually, you deployed to Iraq from February 2004 to October 2004. On 31 December 2005, you commenced active duty on another set of orders. On 10 March 2006, your unit deployed to ██████████. On or about 4 August 2006, you were injured by the explosion of an improvised explosive device. On 2 October 2006, your unit returned from Iraq. On 23 January 2007, your medical condition was reviewed by a medical board, which placed you on limited duty status for six months. Next, as reflected in your medical record, you were referred for physical therapy for six weeks. You were released from active duty on 25 November 2008. According to your Certificate of Release or Discharge from Active Duty (DD Form 214), you receive an RE-1A reentry code, which meant that you were preferred for reenlistment in the service. You reiterate in your current petition the argument that you made in your current petition, that you were forced out of the Marine Corps a

year and a half short of 20 years, which deprived you of a retirement. The Board again observed that your official military personnel file does not contain final discharge documents from the Marine Corps Reserve, nor does it contain any evidence of your efforts to remain in the Marine Corps. The Board was also unable to ascertain any such documentation from your petition or its enclosures.

You filed your previous petition in 2021 in which you sought similar relief, including a request that you receive a service disability retirement. In order to assist the Board in reaching a decision in that petition, it obtained an advisory opinion (AO) from a qualified medical professional, which was dated 14 August 2022. That AO was considered unfavorable to your request. You were provided a copy of that AO, and you provided a response in rebuttal to the AO dated 27 September 2022. The AO explained that it found no evidence in your naval records that you were being considered for referral to the Physical Evaluation Board (PEB) for possible medical retirement. The AO concluded that had you been referred to the PEB, “a finding of fit to continue naval service would have been the likely result.” The Board considered your prior petition on 24 October 2022 and informed you of its decision by letter dated 7 November 2022. In its decision letter, the Board explained that it reviewed all of your contentions and the material that you submitted in support of your petition, including the medical documentation and supporting materials that you provided, as well as your rebuttal to the AO, and the Board disagreed with your rationale for relief. Ultimately, the Board explained that it did not discern an error or injustice in your naval records and denied your petition.

In your request for reconsideration, you have requested (1) a service disability retirement for left shoulder strain and related conditions rated at 20% and radiculopathy rated at 40%; (2) Combat Related Special Compensation (CRSC) for Radiculopathy, right lower extremity and left shoulder strain with impingement; (3) three year constructive credit for non-regular retirement; and (4) retroactive payment of all benefits and entitlements. In support of your request for reconsideration you asserted as a new argument that prior to your separation from your last period of active duty service you were reviewed by an Abbreviated Medical Board, which you contend recommended that you be retained, that your commanding officer erred by failing to refer this recommendation to the Commandant of the Marine Corps for adjudication. Thus, you argue, because this was never done, you did not receive the benefit of sanctuary status, which you would have achieved after 3 February 2009, and you would have been referred to the Disability Evaluation System.

The Board carefully reviewed your new contentions and the material that you submitted in support of your request for reconsideration, and the Board determined that it continued to find no error or injustice in your naval records with respect to your discharge from service. In reaching its decision, the Board observed that it applies a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Thus, the Board observed that notwithstanding your Abbreviated Medical Evaluation Board, which occurred during your latest period of active duty as a Marine Corps reservist, you were nevertheless separated from service and assigned an RE-1A reentry code, which meant that you were considered fully eligible for reenlistment. As it found in its prior decision, the Board similarly found that there was no indication that any medical provider recommended that you be referred to the PEB during your

time in service, and you were in fact separated. The Board considered your argument that your commanding officer wrote in one of your fitness reports that you were pending a medical separation board, which the Board assumed meant either a Medical Evaluation Board (MEB) or the PEB. The Board did not find your argument on this sentence to be persuasive in that it is belied by the fact that you were in fact separated from service and assigned a favorable reentry code as well as the opinion of the AO, which found that you had no condition that would have been found to render you unfit within the meaning of the DES. Accordingly, in light of all of the foregoing, the Board denied your request for reconsideration

With respect to your claim for CRSC, which appears to be a new claim to this Board, the Board determined that you had not exhausted your available remedy for such relief. CRSC claims are submitted in the first instance to the following: Secretary of the Navy, Council of Review Boards, Combat Related Special Compensation Board, ██████████
██████████ For the foregoing reason, the Board denied your request for CRSC.

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,

3/19/2025

