



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

██████████
Docket No. 10591-24
Ref: Signature Date

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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 you did not file your application in a timely manner, the statute of limitation was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 19 December 2024. 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 Kurta Memo.

A review of your record shows that you enlisted in the United States Marine Corps and began active duty service on 23 June 2008. You were a member of the Marine Security Guard and deployed to ██████████ in 2011. In February 2018, you self-referred to the Substance Abuse Rehabilitation Program (SARP) and completed one month of residential treatment at ██████████ ██████████ in ██████████ for alcohol abuse. You relapsed and were arrested on 30 December 2018 for driving under the influence of alcohol. You were subsequently hospitalized at Naval Hospital ██████████ ██████████) from 14 January to 24 January 2019 due to intoxication and suicidal ideation.

On 19 March 2019, a Medical Evaluation Board at ██████████ refereed you to the Disability Evaluation System (DES) for Major Depressive Disorder (MDD) and Alcohol Use Disorder. On 10 June 2019, the Informal Physical Evaluation Board (PEB) found you FIT to continue on active duty. The PEB determined your MDD condition did not prevent you from being able to continue to serve and that your alcohol use disorder is not a ratable condition per service regulations as a medically unfitting condition. On 3 July 2019, you waived your right to request a formal PEB hearing to contest this finding and accepted your finding of FIT by the PEB. On 15 July 2019, you signed a counseling stating that due to having an alcoholic related incident while operating a vehicle you no longer met reenlistment prerequisites and would receive a

reenlistment eligibility code of RE-3C. On 17 July 2019, you were discharged from active duty; your Certificate of Release or Discharge from Active Duty (DD Form 214) states an Honorable characterization of service and "Completion of Required Active Service" as the narrative reason for separation.

For this petition, you request placement on the Permanent Disability Retired List due to post-traumatic stress disorder (PTSD). You argue you were not properly diagnosed while on active duty and included Department of Veterans Affairs (VA) documents showing the VA has rated you for PTSD.

In keeping with the letter and spirit of the Kurta Memo, the Board gave liberal and special consideration to your record of service, and your contentions about any traumatic or stressful events you experienced, and their possible adverse impact on your service, to include whether they qualified you for the military disability benefits you seek.

Upon review, the Board disagreed with your rationale for relief. First, the Board noted you were referred to the PEB for MDD and were found you Fit. The record shows you were properly counseled on the meaning of that Fit finding and had the opportunity to request a formal board hearing to present evidence to contest your fitness determination. You elected to waive the formal board hearing and accepted the Fit finding. The Board determined the PEB findings to be reasonable and based on substantial evidence in the record. As explained in the PEB findings, your MDD diagnosis was not considered unfitting since it had been present for a number of years and did not preclude you from the reasonable performance of your duties. Second, the Board noted your argument for transfer to the PDRL is partially based on VA decisions. 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. Consequently, the Board found no error in the PEB decision and did not discern any facts that would support you being eligible for medical retirement. 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,

2/10/2025

