



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

██████████
Docket No. 11568-24
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 your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 3 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.

A review of your record shows you enlisted in the Marine Corps and commenced active duty on 18 August 2003. On 30 November 2006, an informal Physical Evaluation Board (PEB) found you unfit due to epilepsy, a condition that existed prior to entry, and recommended your separation without benefits from active duty. On 12 December 2006, you acknowledged the findings of the informal PEB and the four available options¹ explained in the written counseling. On 12 December 2006, you elected to accept the preliminary findings and waived your right to submit new or additional information or to demand a formal hearing. Additionally, you received final PEB counseling on the same date; wherein you were specifically counseled on your “right to Petition for Relief” from the final action prior to discharge and told your only recourse after separation was to petition this Board. On 15 January 2007, you were honorably discharged by reason of disability pursuant to the PEB findings.

In your petition, you have requested “non-duty related medical discharge” be changed to

¹ Paragraph 4 of the counseling stated the unfit finding options: a) Accept the finding; b) Accept the finding and request Permanent Limited Duty to Service Headquarters; c) Request reconsideration; and d) Demand a formal PEB.

“service-related medical retirement.” You contend you were ill-advised on your ability to appeal the decision made at the time, were not diagnosed with seizures or epilepsy until you came home from overseas in 2006 where you were “close to a few IED explosions,” and you earned a Combat Action medal from your service in Iraq. In support of your contentions, you submitted medical records from your time in-service and specifically circled/highlighted words and/or phrases on the documents which you contend support your argument that your condition did not exist prior to service but was instead initially diagnosed in 2006.

The Board carefully reviewed your petition and the material you provided in support of your petition, and disagreed with your rationale for relief. In reaching its decision, the Board observed that you did not provide any new or additional medical information to support your contention your condition did not exist prior to entry. Instead, you simply emphasized a different interpretation of the same documents available to the PEB. Further, the Board noted you were counseled on the available options after the informal PEB’s finding and after your final PEB counseling. The record indicates you acknowledged your rights and options but chose not to “demand” a formal PEB, exercise any of the four options, or petition for relief from the final action while in-service. The Board determined there was insufficient evidence of an error or injustice in the PEB’s determination your medical condition existed prior to service. Accordingly, given the totality of the circumstances and view of all of the foregoing, the Board determined 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,

4/17/2025

