



**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. 1493-25  
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.

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 1 May 2025, has carefully examined your current request. The names and votes of the panel members 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.

Your service history has been set forth before in this Board's letters in response to your several prior petitions. As it has set forth before, on 11 August 2003, you reenlisted in the Navy after serving over six years of service. On 10 April 2006, medical personnel diagnosed you with depression and you began treatment. On 16 February 2007, you were found unsuitable for operational duty by the Bureau of Naval Personnel. On 6 March 2007, you were notified of the initiation of administrative separation processing and your rights in connection therewith for "Convenience of the Government – Physical or Mental Condition." On 23 March 2007, you were honorably discharged from the Navy due to "condition, not a disability."

You filed a petition with this Board in 2007. The Board reviewed your petition on 11 September 2008 and informed you by letter, dated 19 September 2008, that it denied your requested relief. In reaching its decision, this Board set forth several facts, including that, on 14 June 2006, a medical board diagnosed you with mechanical low back pain and subjective memory complaints, and recommended that you be referred to the Physical Evaluation Board (PEB) for a

determination of your fitness for further service. On 14 September 2006, the PEB determined you were fit. You accepted that finding on 27 September 2006. You underwent a medical assignment screening on 9 October 2006 and you were found fit for duty. Nevertheless, you were also considered not world-wide assignable because you had recently been diagnosed with depression. On 16 February 2007, the Bureau of Naval Personnel directed that you be processed for separation in accordance with Military Personnel Manual article 1910-120, by reason of a condition, not a disability, based on your having been found unsuitable for operational duty.

You filed another petition with this Board in 2016 seeking a service disability retirement. In connection with reviewing your petition, this Board obtained an advisory opinion (AO) from the Department of the Navy Council of Review Boards (CORB). After reviewing your application as well as relevant service and medical records, the AO concluded:

In summary, the evidence does not support the applicant's request for a disability retirement. This is due to the presence of objective evidence the applicant's duty performance was judged to have been adequate at the time of PEB processing. Had a re-referral to the PEB occurred a finding of fit to continue naval service would have been the likely result. The applicant's sharp decline in duty performance, noted in his evaluation record covering the period prior to his separation and following his PEB processing, appears not to have been caused by a condition warranting re-referral to the PEB.

After receiving the foregoing AO, this Board reviewed your application and informed you by letter, dated 31 July 2017, that it denied your requested relief. According to the Board:

The Board carefully considered your arguments that you deserve to be placed on the Permanent Disability Retirement List. You assert that your Post-Traumatic Stress Disorder condition existed prior to your discharge and made you unfit for continued naval service. Unfortunately, the Board disagreed with your rationale for relief. In making their finding, the Board substantially concurred with the advisory opinion contained in Director CORB letter 5220 CORB: 002 of 16 May 2017.

Specifically, the Board concluded there was insufficient evidence that you were unfit for continued naval service due to a qualifying disability prior to your discharge. You were determined to be fit for duty by the Physical Evaluation Board (PEB) on 14 September 2006 and accepted their findings on 27 September 2006. This convinced the Board that you agreed with the PEB's determination that you were not occupationally impaired by a qualifying disability six months prior to your discharge. The fact you were eventually discharged for not being world-wide deployable did not convince the Board that you were unfit for continued naval service since you could have requested a change in rating to continue your Navy career. Further, the Board concluded the decision to process you for administrative discharge was in part driven by your poor performance prior to your discharge. These facts and findings convinced the Board you did not qualify for referral to a

medical board or the PEB. Accordingly, the Board determined no error or injustice exists in your case.

You filed another petition with this Board in 2019, for which you filed two DD Form 149s. In the first DD Form 149, you requested that your discharge be changed from HFV (Non-Service Connected Disability) to retired. In your second DD Form 149, you requested to have your discharge changed to a retirement because you asserted you had 20 years of qualifying service combined between your active and reserve service. The Board informed you it denied this petition by letter dated 1 February 2021.

In your current petition, you request to be medically retired with an effective date of 23 March 2007. In the alternative, you request that a medical evaluation board (MEB) or physical evaluation board (PEB) be convened to determine if you had any medical conditions that made you unfit for service at the time of your separation and if you should have been medically separated or retired. You request that, if your petition is granted, you be provided back pay as appropriate. In support of your current petition for reconsideration, as new matter, you submitted a letter from a Licensed Clinical Psychologist who opined that, “it is at least as likely as not that [Petitioner] was unable to perform his job duties at the time of his administrative separation from the Navy. Assessing his physical limitations is beyond the scope of my practice, but his mental health symptoms alone were sufficiently distracting to reduce his effectiveness, and his command restricted him from carrying a weapon, which was crucial to his job performance.” You also provided a rating decision from the Department of Veterans Affairs (VA), dated 19 August 2015, which includes a 70% rating for Post-Traumatic Stress Disorder (PTSD). In addition, you provided a letter in support of your request in which you argued that you were not properly separated from the Navy since the Secretary of Defense was required to authorize your separation.

The Board carefully reviewed your contentions and the material that you submitted in support of your request for reconsideration, and determined that it found no error or injustice in your naval records. In reaching its decision, the Board first considered the document that you provided by the Licensed Clinical Psychologist containing the opinion that it was at least as likely as not that you were unable to perform your job duties at the time of your administrative separation. The Board did not find this letter to be persuasive since the Board determined the findings of the Navy PEB to be more probative. The Board considered that the PEB had at its disposal all available information contemporaneous to the time of your service and made their findings based on a comprehensive evaluation of the evidence. Similarly, the Board was not persuaded by your reliance on MILPERSMAN 1900-120 for your assertion that your discharge needed to be approved by the Secretary of Defense. On this point, the Board observed you were reviewed by the PEB in 2006 for low back pain and subjective memory complaints and found fit. Later, you were found to be unsuitable for service due to a condition, not a disability, which related to a different condition for which you were not reviewed by the PEB. In addition, in reaching its decision, the Board reviewed and reiterated that it concurred with the rationale of the AO it obtained from the CORB in its review of your 2016 petition, discussed above, and which the Board determined your new matter did not suffice to overcome its findings. In conclusion, the Board determined that you provided insufficient new matters for the Board to change its prior

decisions. 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,

5/19/2025

