



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

██████████
Docket No. 1706-25
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 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 9 July 2025. 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, to include the 25 August 2017 guidance from the Under Secretary of Defense for Personnel and Readiness regarding requests by Veterans for modification of their discharge due to mental health conditions, sexual assault, or sexual harassment (Kurta Memo) guidance as well as the 4 April 2024 guidance from the Under Secretary of Defense for Personnel and Readiness relating to the consideration of cases involving both liberal consideration discharge relief and fitness determinations (Vazirani Memo) (collectively the "Clarifying Guidance").

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

A review of your record shows that you enlisted in the Marine Corps and commenced active duty on 16 October 2000. You were honorably discharged, on 15 October 2004, at the completion of your required service and assigned an RE-1A reentry code; which meant that you were eligible for reenlistment.

In your petition, you request to be reviewed by the physical evaluation board (PEB) for consideration to be medically retired. In support of your request, you contend that while you were in service, you were awarded a Purple Heart Medal after you were injured in Iraq in March 2003. You explained that your injuries would last a lifetime and that, after you were injured, your command pushed you around as a burden until your discharge. You argue that your injuries were never acknowledged during active duty but you had to have multiple surgeries after leaving active duty. You further assert that your mental health declined rapidly as well and that you hit rock bottom, lost your job, employment, and marriage, and then attempted suicide. You state that, today, you still find yourself struggling. You included a personal statement as well as a letter from the Department of Veterans Affairs (VA) listing a variety of service connected conditions; which includes, among others, 70% for PTSD 40% for gunshot wound

After having received your petition, the Board wrote to you on 24 February 2025 explaining that a “review of your application revealed that you did not include materials or documentation to support your claim of a PTSD or mental health diagnosis or treatment. Accordingly, we are sending you this notice to request additional medical or clinical evidence from you in support of your claim. At this time, your case has been temporarily administratively placed on hold in order to provide you an opportunity to submit any additional evidence or documentation you have within the next thirty (30) days.” The Board did not received any additional information as of the date the Board considered your petition.

The Board carefully reviewed your petition and the material that you provided in support of your petition and disagreed with your rationale for relief. In keeping with the letter and spirit of the Clarifying Guidance, 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. As set forth in the Vazirani Memo, the Board first applied liberal consideration to your assertion that your mental health condition potentially contributed to the circumstances resulting in your discharge to determine whether any discharge relief is appropriate. After making that determination, the Board then separately assessed your claim of medical unfitness for continued service due to your mental health condition as a discreet issue, without applying liberal consideration to the unfitness claim or carryover of any of the findings made when applying liberal consideration.

Thus, the Board began its analysis by examining whether your mental health condition actually excused or mitigated your discharge. On this point, the Board observed that you did not request discharge-related relief in your petition; nor could the Board discern any appropriate discharge-related relief for you because you received an Honorable characterization of service based on completing your required service and you were designated as eligible for reenlistment.

After making that determination, the Board then separately assessed your claim of medical unfitness for continued service due to a mental health condition as a discreet issue; without applying liberal consideration to the unfitness claim or carryover of any of the findings made when applying liberal consideration. Thus, the Board analyzed whether you should have been placed into the Disability Evaluation System (DES) and reviewed by the PEB while you were in service. Here, the Board determined that you provided insufficient evidence that there was an error or injustice in the fact that you were not so referred to the DES while in service. In reviewing evidence of errors or injustice with respect to disability retirements, the Board

observed that, in order to qualify for military disability benefits through the DES with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting. In reaching its decision, the Board also 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.

In light of the foregoing standards, the Board observed that your naval records do not reflect any indication that, while you were in service, there was any error in the fact that you were allowed to separate at your end of obligated active service and received a favorable Certificate of Discharge or Release from Active Duty (DD Form 214). Furthermore, as noted above, you were eligible for reenlistment at the time of your release from active duty; which indicates that you were deemed physically fit to continue active duty service. In addition, the Board noted that it specifically wrote to you requesting additional supporting documentation and received no response. Further, the Board commended you for the sacrifice that you gave your country during your service evidenced by your award of the Purple Heart Medal and it observed that you have indicated that you have received post-service disability ratings from the VA. However, the Board found your reliance upon such post-service findings by the VA granting you service connected disabilities to not be persuasive because the Board noted that the VA does not make determinations as to fitness for service as contemplated within the service disability evaluation system. 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. Accordingly, the Board found that you provided insufficient evidence to overcome the presumption of regularity that you were fit to serve within the meaning of the DES through the end of your obligated service. In conclusion, in its review and liberal consideration of all of the evidence and its careful application of the Clarifying Guidance, 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,

7/23/2025

