



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

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Docket No. 2127-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to 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.

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 9 January 2026. 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.

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 29 March 2004. While you were in service, you were referred to be reviewed by a Physical Evaluation Board (PEB) for potentially unfitting medical conditions within the Integrated Disability Evaluation System (IDES). You had six conditions referred to be evaluated by the PEB: (1) lower back pain, (2) right knee chondromalacia patellae, (3) very mild cognitive changes, (4) traumatic brain injury (TBI), (5) post-traumatic stress disorder (PTSD), and (6) headache with mixed features including migraine. On 21 October 2009, an Informal PEB (IPEB) published its finding that it found you unfit for conditions (1) and (2) and found that conditions (3) through (6) were Category III conditions; which means conditions that are not separately unfitting and do not contribute to the unfitting conditions.

On 14 December 2009, you requested reconsideration of the findings of the IPEB and demanded to be reviewed by a Formal PEB (FPEB). You were granted a review by an FPEB; at which you were represented by legal counsel. On 2 March 2010, the FPEB published a Formal Rationale explaining its findings in detail. In its findings, the FPEB explained that it considered the same conditions that the IPEB reviewed for a determination of whether they were unfitting; specifically: (1) lower back pain, (2) right knee chondromalacia patellae, (3) very mild cognitive changes, (4) TBI, (5) PTSD, and (6) headache with mixed features including migraine. The FPEB further explained that, at its formal hearing on 2 March 2010, it added an additional medical condition for review, enumerated condition (7), which was adult onset growth hormone deficiency with concurrent testosterone deficiency and insulin resistance.

Upon its formal hearing review, the FPEB found you to be unfit for the condition (7), based on the following rationale:

The member's ability to perform the duties of his rating is significantly impacted by this condition due to the aforementioned daily injections of growth hormone, weekly injections of testosterone, adherence to a diabetic diet, and metformin. Close endocrinology surveillance for an indeterminate period of time is necessary. The member continues to experience central obesity, fatigue, and perceived muscle weakness, all attributable to this recently diagnosed condition. Therefore, he is currently unable to perform his duties as a Field Radio Operator.

With respect to diagnoses 1, 2, 3, 4, 5 and 6, the FPEB found them to be considered Category III (that is, they did not preclude the continued performance of duties were not separately unfitting or contributing to the unfitting condition). The FPEB stated that, in reaching its decision, it considered that in your Non-Medical Assessment, your commanding officer explained that you had demonstrated effective performance of your duties in spite of the pain attributable to the chronic conditions of your knees and back, and that you also served as a range officer, including participation in live fire events, until June 2009. The FPEB explained that you testified at the hearing that you were removed from this assignment was due to a change in the regulations delineating qualification requirements, and the removal did not occur as a consequence of any of your medical conditions. The FPEB further explained that:

medical record documents the member's symptoms, attributed to his history of blast exposure, have either adequately responded to treatment, or are mild. His neuropsychological testing was conducted in October 2008, with identified cognitive weaknesses described as 'very mild.' His headache condition was treated within the Neurology Clinic, with response to prophylactic and abortive medication. The member underwent cognitive and vestibular rehabilitation with documented improvement and progression, up to the time of discharge in June 2009. The medical record and the member's testimony revealed an appropriate response to previous treatment of his condition of PTSD, with the current symptoms of occasional nightmare or sleep impairment described as minimal.

On 24 June 2010, the Department of Veterans Affairs (VA), in its role within the IDES, issued its proposed disability rating for diagnosis (7), explaining, "[f]or Disability Evaluation System

purposes, a 20 percent evaluation is proposed for adult onset growth hormone deficiency with concurrent testosterone deficiency and insulin resistance. For purposes of entitlement to Department of Veterans Affairs (VA) benefits, service connection for adult onset growth hormone deficiency with concurrent testosterone deficiency and insulin resistance is not proposed.”

Thereafter, on 24 August 2010, with the assistance of your PEB Liaison Officer (PEBLO), you executed your election of options (EOO) form; in which you set forth that you accepted the findings of the PEB. On 30 August 2010, the President, PEB, informed the Commandant of the Marine Corps that you were found unfit with a 20% disability rating that you should be discharged with severance. On 30 October 2010, you were discharged due to disability with severance pay in accordance with the finding of the FPEB.

In your petition, you request to have your military service disability rating to be aligned with your 100% permanent and total VA disability rating. In support of your request, you explained that you found original documentation which states that the PEB did not include your PTSD or TBI in assessing your disability rating, and that you suffered PTSD and a TBI while you were in service, as well as lower back and right knee injuries. In further support of your request, you provided your original separation orders as well as documentation from the VA

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 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. In its careful review of the entirety of the available records, including those that you provided, the Board determined that the available records, along with your argument in support of your requested relief, were insufficient to overcome the presumption of regularity. In particular, you argued that you have found documents that the PEB did not include your PTSD and TBI conditions in assessing your disability rating. However, your PEB file reflects that you were in fact diagnosed with PTSD and TBI while you were in service, and you were specifically assessed for fitness with respect to those conditions, as well as your lower back and right knee injuries. Despite considering those conditions, the PEB specifically noted that they were not unfitting, as described above. Further, the Board determined that you provided insufficient evidence or argument that, while you were in service, your progress through the DES was in error. The records revealed, as set forth above, that you were reviewed through the entirety of the DES process and received the required due process, i.e. reviewed by an IPEB, filed for reconsideration, demanded and received an FPEB, and represented by counsel. The Board considered that the FPEB set forth a fulsome Formal Rationale its medical reasoning for its findings and, with the assistance of your PEBLO, you accepted the findings of the FPEB. Under these circumstances, the Board was unable to find an error or injustice in your naval record with respect to your processing in the DES and your resulting discharge as a result of that processing.

The Board also disagreed with your rationale to have your service disability discharge rating changed to conform to your 100% post-service VA disability rating. At the outset, the Board observed that findings made within the DES are static and represented the findings of the PEB at

the time of your service. These findings do not increase over time as a result of post-service findings by the VA. Further, 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. By contrast, and as described above, the PEB, within the DES, made specific findings of fitness for your service with respect to specific diagnoses. 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,

1/20/2026

