



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD
ARLINGTON, VA 22204

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Docket No. 2376-25
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 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 25 February 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, 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) 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 also considered a 29 December 2025 advisory opinion (AO) from a board-certified psychiatrist. Although you were provided an opportunity to respond to the AO, you chose not to do so.

A review of your record shows that you enlisted in the Navy and commenced active duty on 25 June 2013. On 13 June 2017, your commanding officer recommended that you be disqualified for nuclear duty due to your diagnosis of an adjustment disorder with mixed anxiety, depressed mood, and suicidal ideation. On 27 September 2017, Department of the Navy Bureau of Medicine and Surgery (BUMED) informed Commander, Navy Personnel Command, that you did not meet the established physical standards for Nuclear Field Duty. Your final enlisted performance evaluation had a 3.29 trait average and you were recommended early promotion. The comments on your performance described your successful tour aboard your ship and indicated you would be successful in any post-service organization. On 8 August 2018, you

were discharged due to unsatisfactory performance. You provided documentation that, post-service, the Department of Veterans Affairs (VA) granted you service connection for generalized anxiety disorder with unspecified depressive disorder (also claimed as sleep disturbances) with an evaluation of 50 percent effective 9 August 2018.

In your application, you requested that your naval record be corrected by changing your narrative reason for discharge from unsatisfactory performance to a medical retirement with corresponding changes to separation authority, separation code, and reentry code. In support of your request, you asserted that you were diagnosed by your ship's psychologist as having an adjustment disorder with anxiety and depressed mood on 27 May 2017. You further stated that you received a DD-2807-1 on 7 July 2018, which stated that your anxiety and depression had not had significant changes, and that, on 23 October 2018, the VA issued you a rating of 50% for generalized anxiety disorder, which you assert is directly related to the adjustment disorder diagnosed by your ship's psychologist.

In order to assist it in reviewing your petition, the Board obtained the 29 December 2025 AO, which was considered unfavorable to your request. The AO explained its opinion at the outset, stating, "in my medical opinion, at the time of discharge from military service, the preponderance of available objective clinical evidence did not support the contention Petitioner suffered from a medical condition that prevented him from reasonably performing the duties of his office, grade, rank, MOS, or rating." The AO turned to describe the evidence reviewed in reaching its decision, describing that the available objective clinical and non-clinical evidence documented that you successfully executed the full range of responsibilities of your rate through your 15 March 2017 performance evaluation, which reflected individual trait averages from 3.00-4.29 and "Must Promote" and "Early Promote" advancement recommendations with laudatory narrative comments. The AO further explained that your performance evaluation encompassing the period with your mental health diagnosis and physical disqualification from nuclear field duties showed a drop in your individual trait average to 2.86, but the individual trait averages still indicated that you continued to "Meet Standards" in all categories except "leadership." Further, your final performance evaluation reflected an individual trait average of 3.29, which indicated an increase in performance, and included laudatory comments reflecting that you had a "successful tour" and would "succeed at any level in any organization."

The AO next set forth the standard that the presence of a diagnosis is not synonymous with a disability. Rather, "[i]n order to find that a member is Unfit for continued naval service, it must be established that the medical disease or condition underlying the diagnosis actually interferes significantly with the member's ability to carry out the duties of his or her office, grade, rank, or rating. (SECNAVINST 1850.4E para 1004 c(2)(a))." As applied to your request, the AO found that there was no "clinical evidence that any of your medical or mental health providers considered your condition unfitting for continued service or was considered referable to a medical evaluation board (MEB) review for possible referral to the Physical Evaluation Board (PEB) for adjudication of fitness for continued service." The AO continued:

The available clinical and non-clinical evidence documented that as a result of his in-service diagnosed Adjustment Disorder, Petitioner was physically disqualified from Nuclear Field Duties. However, it appears he continued to serve in his rating

and specialty following this disqualification, just not in billets in the nuclear duty field. Petitioner was not considered for administrative processing on the basis of his diagnosed mental health condition.

The AO then addressed your post-service VA service connected disability rating for a mental health condition. On this point, the AO explained VA assigned your rating without regard to the issue of fitness to perform military duty. Further:

[t]he available clinical and non-clinical evidence did not contain symptoms of these VA determined diagnoses during his military service, nor were these conditions evident on the initial VA evaluations when he first sought enrollment to the VA healthcare system post-discharge. Even if supported by the Veterans Administration, VA service connection does not dictate unfitness for naval service. The Veterans Administration does not determine fitness for military duty, which is the responsibility of the Secretary and military authorities. (*Hinkle v. United States*, 229 Ct.Cl. 801, 804-05 (1982)).

The AO concluded, “in my medical opinion, the preponderance of objective clinical evidence provides insufficient support for Petitioner’s contention that at the time of his discharge he was unfit for continued military service and should have been referred to the Disability Evaluation System for adjudication of fitness for continued service and consideration for medical retirement.”

The Board carefully reviewed your petition and all of the material that you provided with that 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 excused or mitigated your discharge. On this point, the Board considered that you established, post-service, you were diagnosed with a mental health condition, which was also described within the AO. Thus, the Board considered whether in its application of special and liberal consideration, there was anything in your discharge to excuse or mitigate. In your situation, the Board considered that your discharge was based on your unsatisfactory performance. The Board also considered that in reaching its decision, it relies upon 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 evaluating your petition, even when applying liberal consideration to your circumstances, the Board determined that you provided insufficient evidence to overcome the presumption of regularity that your command’s

decision was appropriate when it was determined to discharge you for unsatisfactory performance. Therefore, the Board was unable to find an error or injustice in your discharge and basis therefore. Thus, the Board completed the first step of the analysis described in the Vazirani Memo.

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 considered whether your mental health condition should have resulted in your being reviewed by the Physical Evaluation Board and ultimately retired with a service disability retirement. Upon its review of all available materials, the Board determined that you provided insufficient evidence of an error or an injustice in the fact that you were not retired with a disability retirement. In reaching its decision, the Board substantially concurred with the opinion of the AO, which the Board found to be reasonable and based on substantial evidence. In that vein, the Board considered the issues in your petition to require specialized medical knowledge, and the Board observed that the AO provided a fulsome description of your conditions and your arguments based on medical evidence, and it provided insight into technical medical documentation. The Board also considered that you were provided a copy of the AO and that you did not provide a response in rebuttal. Therefore, 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,

3/20/2026

