



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

Docket No. 3123-25
Ref: Signature Date

[REDACTED]
[REDACTED]
[REDACTED]

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.

A three-member panel of the Board, sitting in executive session, considered your application on 8 May 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.

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 revealed that you enlisted in the Marine Corps and commenced active duty on 22 October 2018. On 22 June 2023, you were reviewed by a Medical Evaluation Board (MEB), which referred you to a Physical Evaluation Board (PEB) for an evaluation of a potentially unfitting condition. On 25 September 2023, you were reviewed by an Informal PEB (IPEB); which found you to be unfit due to other specified depressive disorder (unstable) with a 50% rating and determined that you should be transferred to the temporary disability retired list (TDRL). On 26 September 2023, you executed your election of options (EOO) form on which you indicated that you did not accept the findings of the IPEB and demanded a Formal PEB (FPEB). Your EOO was witnessed by your Physical Evaluation Board Liaison Officer (PEBLO). On 20 November 2023, you were notified of your forthcoming FPEB and that you would be provided with legal counsel to represent you at the FPEB. On 11 January 2024, you were reviewed by the FPEB and found to be unfit due to other specified depressive disorder (stable) with a 50% rating. The FPEB determined that you should be transferred to the permanent disability retired list (PDRL). In connection with its decision, the FPEB prepared a

Formal Rationale explaining their decision, which set forth its findings and rationale in detail, explaining that it “considered all of the evidence including the Narrative Summary, NMA, VA C&P, new evidence, and testimony and concluded that OTHER SPECIFIED DEPRESSIVE DISORDER is an unfitting condition.” The FPEB further explained that, “[d]espite the Formal Board testimony and letters of support, the Board could not find documentation of a change to the 31 May 2023 mental health recommendations of not being psychologically fit for full duty, no carrying or firing of weapons, and no deployments.” The FPEB concluded that other specified depressive disorder was an unfitting condition. Thereafter, you were released from active duty on 21 January 2024 and later placed on the Permanent Disability Retired List.

In your petition, you request to have your medical retirement removed so that you can reenlist. In support of your request, you provided PEB documents, service record documents, a written statement, and a letter of support from your company commander, dated 22 November 2023, stating that you had the mental and physical stability to remain in service.

In its review of your petition, the Board considered the entirety of the arguments and documentation that you provided and it did not agree 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. Thus, as it considered your request for relief, the Board observed that, available documentation reflects that while you were in the Disability Evaluation System (DES), you were provided legal counsel and assistance of a PEBLO. Further, the Board was unable to find any apparent defects or other errors in the processing of your case through the DES. Similarly, the Board was unable to find any injustice in the findings of the FPEB in your case. Finally, the Board observed that the Formal Rationale of the FPEB appeared to be reasonable and based on substantial evidence, and, in reviewing the material that you provided, the Board was unable to find among those documents anything that tended to demonstrate that the findings of the FPEB were incorrect. Thus, in light of the foregoing, the Board observed that you provided insufficient evidence to rebut the presumption of regularity. 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,

5/22/2025