



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

Docket No. 3310-25
Ref: Signature Date

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 15 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.

A review of your record revealed that you enlisted in the Navy and served a period of Honorable service from 27 November 2000 to 26 September 2005. Records further reveal that you affiliated with the Navy Reserve. You provided a document that reflected, while you were on a period of active duty in the Navy Reserve, you reported to the Naval Medical Center [REDACTED] Psychiatry Clinic for routine counseling to assist with multiple occupational stressors. You were subsequently returned to duty with no convalescent leave. While you were on this period of active duty, you were processed for administrative separation due to commission of a serious offense. Thereafter, on 28 January 2011, the separation authority directed that you be discharged. Prior to your discharge, you were to be reviewed for a separation physical examination. However, on 9 February 2011, a Medical Service Corps professional from the branch medical clinic at your base wrote a memorandum stating that you refused to comply or participate in your separation physical, and that you were spoken to at length about the process but were unable to be convinced to undergo the examination. The professional stated, "I cannot force the service member to participate in this physical." You were then discharged on 11 February 2011.

You filed a prior petition with this Board in 2014, concerning a nonjudicial punishment that was in your record. This Board informed you by letter, dated 12 May 2015, that your petition had been granted to remove a nonjudicial punishment in your record. In 2018, you followed up with this Board seeking to be paid any monies due as a result of the removal of the nonjudicial punishment; which was granted.

In your current petition, you request that your record be changed to reflect that you received a medical disability retirement for less than 20 years of service. In support of your request, you assert that that relief should be granted in the interest of justice. In further support of your request, you provided a medical document, dated 10 January 2011, which reflected that you sought counseling for occupations stressors and a document from the Department of Veterans Affairs (VA), dated 1 June 2018, reflecting that you were awarded a service connected disability with a 70% rating for post-traumatic stress disorder (PTSD).

In its review of your petition, the Board considered the entirety of the arguments and documentation that you provided and it 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. Thus, the Board analyzed whether there was an error or injustice in the fact that, while you were in service, you were not referred to the Disability Evaluation System (DES) for review of a potentially unfitting condition and subsequently retired due to a disability. On this issue, the Board observed that there was insufficient evidence of an error due to the failure to refer you to the DES and subsequently retired due to a disability. At the outset, the Board observed that it did not find, nor did you provide, any documentation that any person in your chain of command or any medical professional believed you should have been referred to the DES while you were in service. In fact, the medical note that you provided, dated 10 January 2011, expressed only that you reported for routine counseling due to occupational stressors. The Board observed that, had you actually been suffering a condition that rendered you potentially unfit, the medical providers from that encounter would have been required, in the regular course of business, to refer you for further medical review. Next, according with the Manual of the Medical Department (MANMED) prepared by the Department of the Navy Bureau of Medicine and Surgery (BUMED), you were required to receive a separation physical examination prior to your separation. According to section 15-20 of the MANMED, a separation physical examination is a comprehensive evaluation, which is conducted for the purposes of ensuring that service members have not developed any medical conditions while in receipt of base pay that might constitute a disability that should be processed within the DES. In your case, you refused to undergo a separation physical examination. The provider took the additional step of explaining your refusal and that he was unable to force you to undergo such an examination. Thus, your own actions prevented you from being examined at the key period in time that may have supported your case. In light of the foregoing, the Board was unable to find sufficient evidence of an error or an injustice in your naval record with respect to the fact that, at the time of your service, you were not placed into the DES and subsequently retired due to a disability.

With respect to your reliance on post-service ratings by the VA to support your request, the Board did not find this to be persuasive because the fact that the VA may have rated you for

disability conditions that it determined were service connected to your time in the service did not persuade the Board these conditions were unfitting at the time of your discharge from the Navy because 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. Thus, in light of all 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,

5/29/2025

