



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

██████
Docket No. 3958-25
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 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.

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 Navy and commenced active duty on 7 July 2016. While you were in service, you were referred to the Disability Evaluation System (DES) for review of a Right Knee Condition, Bipolar I condition, and Post-Traumatic Stress Disorder (PTSD). On 30 August 2019, the Department of Veterans Affairs (VA), in its capacity within the DES, provided its proposed ratings. On 11 October 2019, an Informal Physical Evaluation Board (IPEB) found you to be unfit at 20% due to your right knee condition. The IPEB also assessed your bipolar and PTSD conditions and found them not to be unfitting and not contributing to the unfitting condition. You accepted the findings of the PEB by executing your election of options (EOO) on 28 October 2019. Your EOO was witnessed by your assigned Physical Evaluation Board Liaison Officer (PEBLO). In accordance with the findings of the

IPEB and in accordance with your EOO, you were discharged on 29 January 2020 due to Disability – Severance – Not Combat Related.

In your petition, you request to have your separation changed from disability-severance pay to disability – Permanent Disability Retired List (PDRL). In support of your request, you contend that when you went to your medical evaluation board (MEB) in 2019, you were misled without anyone notifying you of the difference between initiation the MEB with your Right Knee Condition as the primary diagnosis as compared to your mental health conditions such as PTSD and Bipolar as the primary diagnosis. You further argued that your DES lawyer and the Medical Service Coordinator told you that you could choose to appeal your case while you were still in the Navy or after you got out of service but, due to severe mental health symptoms and related impairments like PTSD and Bipolar you were fighting every day and night, you decided to accept the determination of the PEB and appeal the findings after you got out of the Navy. In further support of your request, you provided documents from the Department of Veterans Affairs (VA) reflecting that you have been awarded a 100% service connected disability rating.

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 considered 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 your case, the Board considered your argument that you were misled with respect to using your Right Knee Condition as the primary diagnosis to be reviewed within the DES as compared to your mental health conditions. On this point, the Board observed that the available records reflected that all of the conditions referred to the IPEB (Right Knee, PTSD, Bipolar) were considered by the IPEB that made the decision in your case and, after consideration of all the evidence, the IPEB determined that your only unfitting condition was your Right Knee Condition. The IPEB specifically addressed your PTSD and Bipolar conditions and determined them not to be separately unfitting and not contributing to your unfitting condition. Thus, the Board found insufficient evidence to support your claim that you were misled as to the conditions referred to the IPEB. Similarly, applying the presumption of regularity, the Board found insufficient evidence that your legal counsel or a Medical Service Coordinator provided inaccurate advice to you at the time you executed your EOO. 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 it found insufficient evidence of an error or injustice in your naval record and determined further 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

