



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

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Docket No. 4429-25
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 you did not file your application in a timely manner, the statute of limitation was waived in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). 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, to include the 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").

A review of your naval record reveals that you enlisted in the Marine Corps and commenced active duty on 22 March 2005. During your service, you served in Iraq and you were awarded a variety of awards, to include, among others, a Purple Heart Medal with one gold star and the Combat Action Ribbon. Your average marks in enlistment were 4.5/4.4 (Proficiency/Conduct). On 21 March 2009, you completed your required active duty service, were discharged with an Honorable characterization of service, and assigned an RE-1A reenlistment code. Thus, you were recommended for reenlistment.

In your application to this Board, you request to change your discharge to a service disability retirement. In support of your request, you argued that you suffered injuries while you were in Iraq and should have been reviewed by a Medical Evaluation Board (MEB) prior to your separation from service. In further support of your request, you provided a variety of service

record documents. You also provided a listing of your post-service ratings from the Department of Veterans Affairs (VA); which reflect that the VA has awarded you a 100% service connected disability rating for post-traumatic stress disorder (PTSD) effective 24 September 2010 and a 40% rating for traumatic brain injury (TBI) effective 16 November 2010.

The Board carefully reviewed your contentions and the material that you submitted in support of your request 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. Further, the Board also considered the Clarifying Guidance and followed the Vazirani Memo. Thus, it 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 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 actually excused or mitigated your discharge. On this point, the Board considered that you were diagnosed by the VA, post-service, to have PTSD and TBI. Thus, for the purposes of application of the Clarifying Guidance, the Board considered these diagnoses in deciding whether discharge relief is appropriate in your case. Despite its application of special and liberal consideration to your request, the Board was unable to find an error or an injustice in your discharge and its characterization. Specifically, you were separated at the completion of your required service and you were assigned an Honorable characterization of service as well as an RE-1A reentry code. Your reentry code indicates that at the time of your separation from service, you were considered fully qualified for reenlistment. Thus, in spite of liberal consideration, the Board found there was no relief that it could provide you on the basis that your PTSD and TBI conditions mitigated the reason and description of your discharge.

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 analyzed whether you should have been placed into the Disability Evaluation System (DES) and reviewed by the PEB while you were in service. Here, the Board determined that you provided insufficient evidence that there was an error or injustice in the fact that you were not so referred to the DES while in service. In reviewing evidence of errors or injustice with respect to disability retirements, the Board observed that, in order to qualify for military disability benefits through the DES with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing

alone, are not separately unfitting. In addition, as noted above, the Board also 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 light of the foregoing standards, the Board observed that your naval records do not reflect any indication that, while you were in service, there was any error in the fact that you were allowed to separate at your end of obligated active service and received a favorable Certificate of Discharge or Release from Active Duty (DD Form 214). In that regard, the Board noted that your available naval records do not contain, nor have you provided, any information that would suggest you were unfit for further service. The Board considered that available records contemporaneous to your time in service did not include any recommendations from treating medical providers that indicated you were not fit for separation from service such that you should have been reviewed by a MEB for further review within the DES. In addition, the Board considered that you did not provide any such documentation. The Board also considered that prior to separation, every Marine undergoes a Separation Physical Examination (SPE), to determine whether the member is fit for discharge. You did not provide your SPE, and the Board did not have it available, but the presumption of regularity would indicate that you were, in fact, fit for separation, because you were in fact separated, and assigned a favorable reentry code that would have allowed you to reenlist. If you were unfit at the time you left service, you would not have been assigned a favorable reentry code.

Further, the Board commended you for the sacrifice that you gave your country during your service evidenced by your two awards of the Purple Heart Medal, and it observed that you have indicated that you have received post-service disability ratings from the VA. However, the Board found your reliance upon such post-service findings by the VA granting you service connected disabilities to not be persuasive because 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. Accordingly, the Board found that you provided insufficient evidence to overcome the presumption of regularity that you were fit to serve within the meaning of the DES through the end of your obligated service. In conclusion, 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,

1/20/2026



Executive Director

Signed by: █