



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

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Docket No. 4732-25  
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session, considered your application on 13 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 Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo) and 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). Additionally, the Board also considered the advisory opinion (AO) furnished by a qualified mental health provider and your multiple AO rebuttal submissions.

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.

You previously applied to this Board to have your reason for separation changed, restoration of pay, allowances entitlements, rights, and privileges affected by your separation, i.e. restoration of your retirement, or to be returned to active duty to be allowed to qualify for retirement benefits. The Board recommended that you be denied relief based on insufficient evidence to establish the

existence of probable material error or injustice. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

1. You commissioned as an Ensign in the U.S. Navy on or about 27 May 1992 following graduation from the U.S. Naval Academy. On 31 August 2000, you were discharged with an Honorable characterization of service at the completion of your required active service. On 8 February 2004 you returned to active duty service. You received another Honorable discharge, on 30 September 2007, and then you immediately continued your active service on 1 October 2007.

2. On 4 January 2013, you received a notification of a physical fitness assessment (PFA) failure for failing to meet the required body composition assessment (BCA) standards in October 2012 (Cycle 2 2012).<sup>1</sup> Your PFA notification informed you that this was your second PFA failure in the most recent four-year period. Your first PFA failure was during Cycle 2 2011. The notification also clearly informed you that a third PFA failure in the most recent four-year period would require mandatory administrative separation processing.

3. On 8 July 2013, you received another notification of a PFA failure for failing to meet the required BCA standards in June 2013 (Cycle 1 2013).<sup>2</sup> Your PFA notification informed you that this PFA failure was your third in the most recent four-year period. Your fitness report for the period ending 13 October 2013 documented your third PFA failure and the corresponding promotion recommendation contained therein was documented as "Significant Problems."

4. On 5 September 2013, your command routed an administrative separation (Adsep) package to Commander, Navy Personnel Command (NPC), which included your personal statement. However, NPC initially rejected the package because it lacked a required endorsement from the immediate superior in the chain of command (██████████ in ██████████). Your command subsequently re-routed the Adsep package through the ISIC on 5 November 2013. Your commanding officer (CO) recommended your separation, but requested that you be allowed to finish your 20-year career at his command. ██████████ endorsed the Adsep package on 19 November 2013 and concurred with your CO's recommendation that you be required to show cause for retention.

5. In the interim, on 25 November 2013, you received another PFA failure notification for not meeting the BCA standards in October 2013 (Cycle 2 2013). This was your fourth PFA failure in the most recent four-year period. The PFA failure notification documented that your weight had increased to 184 pounds from 165 pounds back in June 2013.<sup>3</sup> On 13 January 2014, you underwent a total laparoscopic hysterectomy at ██████████ due to abnormal uterine bleeding.

6. Following the review of your command's Adsep package submission, on 11 March 2014, NPC notified you that you were required to show cause for retention in the naval service, and NPC also directed that Commander, ██████████ convene a Board of

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<sup>1</sup> You weighed in at approx. 165 pounds, which corresponded to a 42% body fat percentage.

<sup>2</sup> You weighed in again at 165 pounds.

<sup>3</sup> Your body weight of 184 pounds corresponded to a 47% body fat percentage.

Inquiry (BOI). The NPC letter informed you that the show cause action was initiated based on substandard performance of duty by failing to conform to prescribed standards of dress, weight, personal appearance, or military deportment. The NPC letter placed you on notice that the least favorable characterization of service that may be recommended in your case was Honorable, and informed you of certain rights in connection with the BOI.

7. On 24 March 2014, you acknowledged your rights in writing and elected to appear before a BOI. ██████████ requested defense counsel on your behalf on 24 March 2014, and the Defense Service Office Southeast (DSO) in ██████████ assigned you counsel on 27 March 2014. The DSO provided you with a separate notice, on the same day, regarding who was assigned to be your counsel that contained DSO contact information.<sup>4</sup> ██████████ defense counsel request to the DSO specifically noted that the BOI was scheduled for 22 April 2014.

8. On 22 April 2014, a BOI convened in your case. At the BOI you were represented by counsel, and you testified under oath on your own behalf.<sup>5</sup> Following the presentation of evidence and witness testimony, the BOI members unanimously determined that you failed to conform to prescribed standards of military dress, weight, personal appearance, or military deportment. Based on their unanimous findings, the BOI members recommended that you: (a) be separated from the naval service, and (b) receive an Honorable characterization of service. On 24 April 2014, CNR ██████████ forwarded the BOI report of proceedings to the Secretary of the Navy via NPC.

9. On 20 June 2014, CNP forwarded the BOI findings to the Secretary of the Navy (ASN(M&RA)) with a recommendation that you be separated with an Honorable discharge and assigned a separation code of "JCR" (weight control failure). On 25 June 2014, ASN (M&RA) approved your separation and directed an Honorable discharge with a "JCR" separation code. Ultimately, on 31 August 2014, you were administratively separated from the Navy with an Honorable discharge characterization and \$83,497.41 in separation pay.

10. On your separation date, you had completed approximately 18 years, 11 months, and 11 days of active duty service. Your active service computations were calculated based on your final DD Form 214 (as corrected by a DD Form 215 issued on 15 December 2014).

11. On 8 April 2016, the Veteran's Administration gave you an overall or combined disability rating of 80% for certain service-connected mental health and medical issues.

12. On 1 May 2018, the Naval Discharge Review Board (NDRB) determined that your discharge was proper as issued and that no change was warranted. The NDRB concluded that there was no impropriety and that your command followed applicable regulations and procedures.

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<sup>4</sup> You were listed as a "Copy to" addressee on the DSO's "Assignment as Counsel for Respondent" letter dated 27 March 2014.

<sup>5</sup> A portion of your testimony from the summarized BOI record of proceedings included the following: "The weight standard for my height is 142. I weigh 180...The instruction for PFA failures requires that a person be administratively processed. I didn't like the waivers and didn't like asking for waivers. I wasn't getting it done and I did not ask for help from medical. I wish I had medical records. I did not attempt to pull out my medical records in preparation for the board."

13. As previously discussed, this Board recommended denial of your initial application on 7 May 2020. ASN (M&RA) (Acting) approved the Board's recommendation on 23 June 2021.

After careful review, the Board reached the following conclusions and denied your application for reconsideration.

The Board initially concluded you were appropriately processed for administrative separation based on your documented PFA failures. While the Board carefully considered your contentions regarding the procedural errors in your separation processing for your weight control issues, the Board was not persuaded.

1. The Board found that your BOI findings were legally and factually sufficient, and the Board did not identify any substantive, evidentiary, or procedural BOI defects that prejudiced you. Additionally, the Board determined that your separation processing was in compliance with all Department of the Navy directives and policy at the time of your discharge.

2. The Board unequivocally concluded that no ineffective assistance of counsel (IAC) occurred. The Board determined that you would need to show that not only was there an error, but that you must also demonstrate that such error prejudiced you. In other words, you must show that there was a reasonable probability that, but for the error, your discharge results would have been different. The Board unequivocally determined that you failed to meet your burden to show that defense counsel's performance was deficient and fell below an objective standard of reasonableness, and/or that there was a reasonable probability of a more favorable result had your alleged deficiencies actually occurred. Thus, the Board concluded that no error materially prejudicial to your substantial rights was committed by your military counsel. Accordingly, the Board concluded that no IAC occurred and that any such suggestion or argument was entirely without merit.

3. The Board determined that your proffered arguments concerning TERA and PEB, albeit potentially compelling, were speculative and not persuasive. First, the Board noted that TERA is not a permanently available retirement option and is only periodically offered to certain eligible service members based on manpower and operational needs of the Navy. Therefore, the Board determined the fact that the Department of the Navy may or may not have offered TERA, in either FY-2013 or FY-2014, was irrelevant to the analysis of your case unless there is evidence you were eligible and offered the option to retire under TERA. Second, the Board found insufficient evidence to support your contention that a PEB should or would have been convened in your case because you were unfit for continued naval service due to a qualifying disability condition. The Board acknowledged that a Medical Officer made a notation in your separation physical record stating, "PEB – NOT FIT for separation," two (2) days prior to your ultimate discharge. However, the Board determined this notation was of no consequence to your ultimate separation. The Board found no evidence you were referred to a medical board despite the annotation made in your separation physical. More importantly, the Board found no evidence in your record that your medical providers or chain of command determined that you had a condition at the time you were in service that rendered you incapable of performing your assigned duties. This was not surprising to the Board since your separation fitness report clearly

identified you as an exceptional worker who significantly improved programs under your leadership. Other than your inability to meet weight standards, the Board found no evidence to indicate you would not have continued your otherwise stellar performance in the Navy. While the Board is aware there are other basis for a finding of unfitness based on a disability condition, they found none that applied in your case. Based on your requested relief to be allowed to return to active duty and qualify for retirement, the Board determined you shared their belief that you are fully capable of performing your duties regardless of the existence of any disability conditions. Thus, the Board concluded that there was insufficient evidence to support a finding that your disability conditions created enough of an occupational impairment to warrant a finding of unfitness for continued naval service and were unpersuaded by your arguments to the contrary.

Because you raised the issue of mental health, the Board requested an AO. A licensed clinical psychologist (Ph.D.) reviewed your contentions and the available records and issued an AO on 14 August 2025. As part of the Board's review, the Board considered the AO. The AO stated in pertinent part:

During military service, the Petitioner received multiple evaluations and a few months of follow-up treatment for a mental health condition. The VA has granted service connection for the mental health condition, effective from her separation. Unfortunately, it is difficult to attribute her PRT failures to mental health concerns, given her apparent termination of mental health services upon her first notification of PRT failure and her lack of continued mental health treatment through subsequent PRT failures.

The Ph.D. concluded, "it is my considered clinical opinion that there is in-service evidence and post-service evidence from the VA of a mental health condition that may be attributed to military service. There is insufficient evidence that the circumstances of her separation from service may be attributed to a mental health condition."

In response to the AO, you provided additional evidence in support of your application. Following a review of your AO rebuttal submissions, the Ph.D. did not change or otherwise modify their original AO each time, respectively.

The Board applied liberal consideration to your claim that you suffered from a mental health condition, and to the effect that this condition may have had upon the circumstances for which you were discharged in accordance with the Kurta Memo. Applying such liberal consideration, the Board found sufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO. However, even applying liberal consideration, the Board found insufficient evidence to conclude that circumstances for which you were discharged was excused or mitigated by your mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion and agreed with the AO that it is difficult to attribute your PFA failures based on your termination of mental health treatment after your first failure. As a result, the Board concluded that your multiple PFA failures were was not due to mental health-related conditions or symptoms.

In addition to applying liberal consideration to your claimed mental health condition and its potential effect upon your separation in accordance with the Kurta Memo, the Board also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your contentions, the totality of your service, the loss of retirement benefits after nearly 19 years of service, your service connected disability conditions, any injustice created by subsequent changes in Navy PFA policy, the character references you provided for review, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that your failure to maintain Navy weight standards outweighed all of the mitigating factors combined.

1. The Board disagreed with your arguments that: (a) the Navy later discontinued the practice to separate service members based on multiple PFA failures, and (b) had NAVADMIN 304/17 been in effect at the time of your discharge, you would not have been separated. The Board noted that your separation in 2014 was in compliance with all Department of the Navy directives and policy at the time of your discharge. Furthermore, the Board observed the Navy has recently reinitiated separations by reason of PFA failures, and the Board specifically noted that active duty personnel who have completed 18 or more years of active service are not exempt from administrative separation processing under the resurrected policy guidance.<sup>6</sup>

2. The Board was well aware of the timing of your BOI and separation as you approached retirement eligibility. However, weight control failure is a mandatory basis for separation processing, and once you failed your third PFA in a four-year period, the command did not have any discretion under existing Navy directives whether or not to initiate separation proceedings regardless of your seniority or time in service. The Board observed that the triggering event for your administrative separation - the June 2013 PFA failure - occurred more than twenty-six months prior to your projected initial retirement eligibility date in September 2015. Your command did not unreasonably delay before taking steps to initiate the administrative separation process and, from the time you failed your third PFA in June 2013 to your BOI and ultimate separation in August 2014, the entire process took less than 15 months. Thus, the Board determined that the timing issue was largely irrelevant to the analysis of your case, and also concluded that there was no evidence in the record regarding any command misconduct, improper motives, or abuses of discretion in the investigating, handling and processing of your BOI and discharge.

3. The Board also observed after your command initiated Adsep processing, you failed a fourth PFA in October 2013 by exceeding the BCA standards and that you had gained an additional nineteen pounds since your June 2013 PFA failure.<sup>7</sup>

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<sup>6</sup> See generally, MILPERSMAN 1910-171, CH-93, 16 Dec 2025 (Separation by Reason of Physical Fitness Assessment (PFA) Failure).

<sup>7</sup> See footnotes 2 and 3, *supra*.

4. The Board determined that if your medical conditions and/or symptoms prevented you from maintaining a proper fitness regimen, it was incumbent upon you to seek any applicable medical waivers.<sup>8</sup>

5. Finally, in reviewing your case holistically, the Board determined the mitigation evidence in your case was insufficient to overcome the fact that you failed not only three, but four PFAs by exceeding the prescribed BCA standards. Following each PFA failure, you were clearly put on notice of the repercussions of future failures. Your command processed you for separation following your third BCA failure and your case was presented to a BOI comprised of three senior naval officers, all holding the rank/grade of Captain (O-6). After hearing all the evidence in your case, including your testimony, the BOI members voted to discharge you and you were ultimately separated with an honorable discharge.

Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your failure to conform to prescribed standards of dress, weight, personal appearance, or military deportment. Thus, the Board found no inequity in your discharge and determined no basis exists to change your record.

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,

2/22/2026

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<sup>8</sup> The Board noted during your BOI testimony that you stated words to the effect that, “I didn’t like the waivers and didn’t like asking for waivers.”