



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

██████████
Docket No. 4956-25
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 on 22 May 2025, has carefully examined your current request. 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.

You previously applied to this Board for a disability retirement and were denied on 13 June 2024. The summary of your service remains substantially unchanged from that addressed in the Board's previous decision.

In your petition for reconsideration, you again requested that naval record be correct to reflect that you received a medical retirement and that you were placed on the Permanent Disability Retired List (PDRL). In support of your request, you aver that you continue to struggle with the disabilities you incurred while in service that resulted from a motor vehicle accident on 7 December 2012. You further averred that the Department of Veterans Affairs (VA) has identified additional injuries to include reduction in neuro-motor response, degenerative arthritis, and nonunion post fracture of left femur with loose motion. In addition, you argue that your RE-1A reentry code that you were assigned at your discharge did not accurately reflect the extent of

damage and injury from the motor vehicle accident that have lingered for the years since and that, since your release from active duty, you continue to struggle with chronic pain, impairment in range of motion, and mobility issues. You have provided your most recent rating decision from the VA reflecting that your total VA disability rating has increased to 100% as well as a psychological testing document relating to differentiating borderline personality disorder from bipolar disorder and other potential conditions¹.

In connection with its review of your prior application, the Board obtained an advisory opinion (AO) dated 1 May 2024, which was considered unfavorable to your request. According to the AO, at the time you were discharged from service, you had completed your course of treatment due to your motor vehicle accident and had been restored to a physical state that rendered you physically qualified for separation. Further, at no point in your treatment did your medical, surgical, or mental health providers consider your condition appropriate for referral to a Medical Evaluation Board (or onwards to the Physical Evaluation Board).

In its letter denying relief, the Board explained its decision by noting that there is no documentation in your service record, and you provided none, tending to support that you had an unfitting condition while you were on active duty. Further, the Board noted that, despite your regular evaluation by medical providers while in-service, none of the providers recommended that you be reviewed by a Medical Evaluation Board for referral to the Physical Evaluation Board. The Board also noted that there is no indication that anyone in your chain of command provided any non-medical evaluations describing your inability to perform your duties as assigned and that you were assigned an RE-1A reentry code upon separation, which meant that you were recommended and physically qualified for reenlistment and is inconsistent with being unfit for future service. Finally, the Board explained that it substantially concurred with the finding of the AO.

In its review of your petition for reconsideration, the Board observed that none of the information that you provided as new matter was sufficient to overcome the previous board's decision, in-service medical documentation, or the findings of the AO. With respect to your reliance on post-service findings by the VA as new matter, the Board observed 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. Thus, the Board did not find such post-service findings to be persuasive. 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

¹ The Board noted you checked the "PTSD" box on your application but did not raise any issues related to your claim. Regardless, the Board determined its rationale for denial is also applicable to a mental health claim.

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,

6/5/2025

