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

[redacted]
Docket No. 5165-25
Ref: Signature Date

[redacted]

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 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 15 April 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 Under Secretary of Defense for Personnel and Readiness regarding requests by Veterans for modification of their discharge due to mental health conditions, sexual assault, or sexual harassment (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"). The Board also considered a 17 February 2026 advisory opinion (AO) from a board-certified psychiatrist, as well as your response in rebuttal to the AO that you transmitted by email on 10 March 2026.

A review of your record shows that you enlisted in the Navy and served a four-year enlistment from 8 September 1993 to 7 September 1997. You reenlisted in the Navy and commenced another period of active duty on 28 March 2000. According to the AO, which reviewed relevant medical documents, on 25 September 2012, your submarine squadron [redacted] Medical Officer referred you to be reviewed for a psychology evaluation, at the [redacted] after your return from a one year deployment to Afghanistan. You were evaluated by a psychologist, who described your chief complaint was feeling "borderline depressed." Further, according to the AO, the examining

provider noted that you had been removed from your leading chief petty officer (LCPO) position aboard your submarine and transferred to a shore squadron due to "a pattern of declining work performance." The AO explained that the examining provider further stated that your symptoms were primarily present in the context of work," that your family was extremely supportive, and that, when you were home, most of your symptoms dissipated. In addition, according to the examining provider, you did not meet the criteria for post-traumatic stress disorder (PTSD). You were diagnosed with Adjustment Disorder with Mixed Anxiety and Depressed Mood due to symptoms of occasional depressed mood, decreased concentration, loss of interest in pleasurable activities, sleep difficulties, and racing thoughts. According to the examining provider, these symptoms were only present in the context of work. You were found fit for duty and released without limitations.

Next, according to the AO, on 3 October 2012 you underwent a psychiatric examination at the Psychiatry Clinic, [redacted], to which you were referred for evaluation for psychotropic medication management. The staff psychiatrist noted that the referral was not deployment-related or traumatic brain injury-related. According to the provider, as described in the AO, you denied any symptoms suggestive of mania/hypomania, PTSD, panic attacks, and psychosis. You also denied any recent issues with sexual addiction. You reported to the psychiatrist that you had work-related problems, and you reported a history of reporting aboard your "boat anticipating a 'good boat' but immediately found problems with division and equipment 'in the first 15 minutes.'" Your problems on the boat culminated in you being removed from your LCPO position and being transferred to the [redacted] in late September 2012. Further, according the provider's report, you "noted a prior mental health history of psychological treatment for Paraphilia, NOS [Not Otherwise Specified] . . . as well as previously noted history of psychiatric hospitalization in January 2005 for suicidal statement in context of marital problems." By January 2006, your condition was considered resolved and you were released to full duty without limitations. The provider noted that you were also psychologically evaluated in 2009 for a security clearance, rendered an assessment of No Psychiatric Diagnosis, and cleared for security clearance processing. The provider diagnosed you with Adjustment Disorder with Mixed Anxiety and Depressed Mood, found you fit for duty, and released you to your command without duty limitations.

Next, according to the AO, on 5 August 2015, you underwent a psychiatric examination at the traumatic brain injury (TBI) clinic at [redacted], where you were evaluated by a psychiatrist for help with "overly strong sexual desires of an unconventional nature" of six to nine months duration of thoughts of extramarital sexual interaction, more arousal from pornography and exposure "flasher" videos. You were diagnosed with Exhibitionistic Disorder and Adjustment Disorder with Depressed and Anxious Mood. You were released without limitations to duty, considered fit for full duty and responsible for your actions.

Next, according to the AO, on 14 September 2015, you underwent a psychology examination at the Psychology Clinic at [redacted], where you were evaluated by a Clinical Psychologist Exhibitionism. According to the AO:

> Petitioner presented with complaint of "Sexual Urges." Petitioner confirmed prior history as documented by [a psychiatrist], adding he was reported to Child Protective Services in 2003 for allegedly fondling his stepdaughter, NCIS was notified, but the case was dropped due to "lack of evidence." Petitioner cited his desire to reduce sexual urges to engage in Exhibitionism which started 7 months prior with periods of engaging in the action most recently 1.5 months prior. He reported he viewed pornography with themes of exhibitionism twice a day. Petitioner was diagnosed with Adjustment Disorder with Mixed Anxiety and Depressed Mood and Exhibitionist Disorder. A history of diagnosis of Major Depression was noted, but not clinically active.

You were deemed psychologically fit and suitable for full duty. Further, you were considered accountable for your actions and subject to normal channels of counseling and discipline, and you were accepted for psychotherapy with the goal of reduction of inappropriate sexual behaviors.

From September 2015 to June 2016, you were seen in follow up by your psychiatrist for medication management as well as your psychologist on two occasions. You were also referred to group therapy for your exhibitionism. According to the AO, during this time frame:

> Petitioner's anxiety and depressive symptoms improved with the supportive therapy and medication management with Prozac. At the time of the last clinical contact on June 10, 2016, Petitioner contacted [the psychiatrist] for a refill of the Prozac at 60mg while on house hunting and reported he was doing well on the Prozac. Petitioner's Exhibitionism condition also improved with psychotherapy and medication management with reported marked decrease in frequency of "sexual urges" and psychological symptoms associated with this disorder (relationship with wife was reported as much improved by the end of his treatment course on active duty).

According to the AO, throughout your course of treatment, the only symptoms that could be associated with PTSD were a brief period of unremembered nightmares (as reported by your wife) and a brief period of increased irritability and decreased concentration attributed to the increased stressors of pending retirement and continuing to seek a job for post-retirement employment. Otherwise, according to the AO, there were several clinical notes specifically stating you did not meet criteria for PTSD and your only diagnoses remained Adjustment Disorder with Mixed Anxiety and Depressed Mood and Exhibitionism. The AO further explained that, during this period of treatment, you were evaluated by your Undersea Medical Officer (UMO), who stated that you were not physically qualified for submarine duty due to asthma. However, your treating mental health providers considered you fit for full duty from a psychological standpoint throughout your period of treatment up through your retirement from active duty. Your duty station was a shore command up until your retirement

According to the AO, you were evaluated by the Undersea Medical Clinic, Groton, on 22 October 2016. At this appointment, your chief complaint was asthma. You had a follow up appointment on 26 October 2015. According to the AO, in the assessment/plan section of the

medical record, the UMC wrote that you had a diagnosis of Adjustment Disorder with mixed anxiety and depressed mood, that you were not physical qualified, that you had moderate asthma, for which you were first diagnosed in December 2014, which was well controlled with medication

On 31 May 2016, you underwent follow up session for your Separation Physical Examination (SPE). According to the AO, you denied any concerns at this time and you were released without limitations to duty. Next, according to the AO, on 10 August 2016, you underwent a pre-employment physical examination at [redacted], where you were evaluated by an Occupational Health Physician. The physician determined you had no disqualifying conditions for employment as Quality Assurance Specialist at [redacted]. On 31 August 2016, you reached sufficient service for retirement and you retired from the Navy

In your application, you requested that the Board amend your naval record to reflect that you received a medical retirement due to disability, effective 1 September 2016, with disability ratings for PTSD and asthma as you contend would have been determined by a PEB. In support of your request, you asserted that the Navy made a procedural error, and it was an injustice, that you were referred to a Medical Evaluation Board [MEB] and physical evaluation board (PEB) for your contended unfitting conditions of undiagnosed PTSD and asthma. You further asserted that after your 12 month deployment to Afghanistan in 2010 (where you were exposed to combat and burn pits) you returned to your command, [redacted] and then experienced symptoms of PTSD, including apathy, anxiety, and difficulty performing your duties. You argued that you were reluctant to discuss your PTSD symptoms due to fear of disqualification from submarine duty," and that your symptoms persisted when you were removed from your boat and you sought counseling for "depression, anxiety, weight loss, and tobacco cessation." You further stated that you continued to have difficulty performing in "high stress environments" due to your mental health and asthma conditions and you cited that your UMO found you not physically qualified for submarine duty and annotated that you were pending disqualification from submarine duty but he failed to initiate a limited duty package or refer you to a MEB. You argued, in summary, that you contended his mental health and asthma conditions warranted evaluation through the Disability Evaluation System (DES) to determine fitness for continued service. You further argued that the Department of Veterans Affairs (VA) diagnosed you with Moderate PTSD in April 2016 as stemming from combat exposure during your 2010 Afghanistan deployment and granted service-connection and disability evaluation at 70%, as well as for asthma at 30% linking it to burn pit exposure during your deployment as well. You reported that your combined disability rating with the VA was eventually increased to 100% in April 2019.

In order to assist it in reviewing your application, the Board obtained the 17 February 2026 AO, which was considered unfavorable to your request. According to the AO, after reviewing all available evidence, at the time of your retirement from the Navy, the preponderance of available objective did not support the contention that you suffered from a medical or mental health condition that prevented you from reasonably performing the assigned duties of his office, grade, rank, MOS, or warranted referral to the DES for adjudication for fitness for continued service. The AO explained that his opinion was based on his finding of insufficient evidence of error in the in-service diagnosis of Adjustment Disorder with Mixed Anxiety as rendered by competent

medical authority during your naval service. Further, according to the AO, you were evaluated during several specific periods of presentations with mental health complaints. These evaluations included a psychiatric hospitalization with round-the-clock inpatient observation and evaluation, "all of which did not document signs or symptoms indicative of a diagnosable PTSD condition, or other mental health condition, of such severity as to rise to the level of consideration for referral to a MEB as a possibly duty-limiting condition, or to the PEB for adjudication of fitness for continued service." In addition, the AO explained:

> The in-service clinical record indicated Petitioner's presenting mental health complaints were consistently related to occupational or personal stressors (such as with his chain of command or work requirements, and later to pending retirement and seeking post service employment), stress derived from inappropriate sexual conduct or desires associated with his diagnosis of Exhibitionism, or marital stressors stemming from either of the two aforementioned stressors. Over separate courses of continuous evaluation and treatment, Petitioner consistently denied signs or symptoms consistent with a diagnosable PTSD condition. Instead, his psychological symptoms were consistently associated with specific stressors which abated with appropriate treatment or time away from these stressors (e.g., symptoms associated with occupational stressors abated when home or away from the command), consistent with an Adjustment Disorder condition.

With respect to your assertion concerning the recommendation of the UMO, the AO explained that was the only medical record entry that alluded to consideration for finding you not physically qualified, but there was no further evidence in the available personnel or medical records indicated that your command or any medical personnel took action on this finding. In fact, according to the AO, "there was no clinical evidence that any of his medical or mental health providers considered his conditions Unfitting for continued service, warranted placement on a period of Limited Duty (LIMDU), or were considered referable to a medical evaluation board (MEB) review for possible referral to the Physical Evaluation Board (PEB) for adjudication of fitness for continued service."

Ultimately, the AO explained that, in his medical opinion, had you been referred to the PEB for your Adjustment Disorder and Asthma conditions, it is likely the PEB would have found you fit for continued naval service "given the lack of evidence in his performance records of impaired functioning, lack of his treating physicians' opinion his condition required referral to a MEB for either placement on a period of limited duty or consideration for referral to the PEB for adjudication of possible unfitting conditions, and the possibility of reassignment to a shore based duty station where he could continue to carry out assigned duties commensurate with his rate." The AO thus concluded, "in my medical opinion, the preponderance of objective clinical evidence provides insufficient support for Petitioner's contention that at the time of his discharge he was unfit for continued military service and should have been referred to the Disability Evaluation System."

You were provided a copy of the AO, and, on 10 March 2026, you provided a response in rebuttal to the AO. In your response in rebuttal to the AO, you took issue with the AO's assertion that you had no history of homicidal or suicidal ideation. According to your response,

your active duty medical records reflect that you had vague homicidal ideation in September 2012. You also took issue with the AO's assertion that, because you did not have an earlier PTSD diagnosis, then your condition did not exist. You argued that this ignores a documented clinical profile common in elite communities like the Submarine Force, where individuals are reluctant to talk about PTSD symptoms for fear of being disqualified. You argued it was procedural error for the Navy not to have you reviewed for limited duty after the UMO found you to be not physically qualified for submarine service. Similarly, you argued the Navy erred by failing to formally disqualify you from submarine service despite being found unsuitable. In addition, you argued that the AO improperly relied on your shore duty evaluations to support that you were fit, but ignored that you had a drop in performance during operational duty. You next argued that your superior evaluations were only attained through effort and due to heavy medical intervention, including daily medication and mental health therapy. Next, you argued that the AO improperly relied upon an inpatient evaluation that you underwent in 2005, which was five years before you experienced combat-related stressors and deployments that you allege form the basis of your current PTSD diagnosis. With respect to your asthma diagnosis, which occurred initially in 2014, you state you remained on shore duty and never served on submarine duty while diagnosed with asthma. Finally, you argued that the AO failed to apply liberal consideration to your request and failed to give significant weight to VA findings of PTSD when they originate from active-duty service.

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, in light of the fact that in your application you raised your post service mental health diagnoses by the VA, the Board fully 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 excused or mitigated your discharge. On this point, the Board considered that your separation from service was due to having reached eligibility for a longevity retirement and you received an honorable characterization of service. Thus, the Board observed there was no discharge- related relief that was available.

After making that determination, the Board then separately assessed whether there was an error or injustice in the fact that you were not processed through the DES and found unfit as a result of a medical or mental health condition. Here, the Board was unable to find an error or injustice in your naval record. 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, the Board also applies the presumption of regularity, which it described above.

Upon its review of all available materials, the Board determined that you provided insufficient evidence of an error or an injustice in the fact that you were not retired with a disability retirement. In reaching its decision, the Board considered the issues in your petition to require specialized medical knowledge, and the Board observed that the AO provided a fulsome description of your conditions and your arguments based on medical evidence, and it provided insight into medical documentation. The Board found that the AO was rational and based on substantial evidence, and it incorporated the rationale of the AO herein in its entirety. The Board also fully considered your rebuttal to the AO, and found that the arguments you made did not change its view on the opinion of the AO. The Board considered that, during your naval service, you received appropriate medical and mental health care from time to time and at no point did any of your providers, or any of your commands, describe that you should be referred for review by a MEB for consideration of potentially unfitting conditions. The Board considered your arguments in rebuttal to the AO, and those arguments did not persuade the Board to reject the conclusions of the AO. The Board noted here that, in your response in rebuttal to the AO, you faulted the AO for not applying liberal consideration to your request. On this point, the Board observed that it is not the place for the AO to apply liberal consideration pursuant to any Clarifying Guidance. The Board sought the AO because it determined that in reviewing your request it required specialized medical knowledge. In your case, the Board applied liberal consideration pursuant to the Clarifying Guidance, described above.

Finally, the Board found unpersuasive your assertion that your claims are supported by your post-discharge VA grant of service-connected disability benefits for your post-discharge diagnosed PTSD condition. The Board observed, however, that the VA assigned disability ratings to each condition after it determined such condition was incurred in the line of duty. The VA assigned your ratings based on those conditions and without regard to the issue of fitness to perform military duty. Further, VA service connection does not dictate unfitness for naval service. The VA does not determine fitness for military duty, which is the responsibility of military authorities. Accordingly, based on all of the foregoing, the Board determined you provided insufficient evidence to overcome the presumption of regularity and it denied your petition in its entirety.

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,

5/5/2026

[redacted]