



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

██████████  
Docket No. 5588-25  
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 for reconsideration on 30 July 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.

You previously filed a petition with this Board in 2023; in which you sought a medical disability retirement. In support of your request, you argued that you suffered from a disability condition while in-service as a result of being harassed and hazed; which led to panic attacks and psychiatric medical care. You also checked the box for "PTSD" on your application but you did not respond to the Board's request for evidence support a claim related to PTSD. The Board carefully considered your request and informed you by letter, dated 8 May 2024, that it denied your request. The Board explained that it denied your request because it found no evidence that you had any psychiatric care or mental health diagnosis while in-service, that you were never referred to a medical board for any disability conditions, and that you provided no evidence other than your statement, to substantiate your contentions. Thus, the Board relied on the presumption of regularity in determining your discharge was proper as issued.

The summary of your service remains substantially unchanged from that addressed in the Board's previous decision. You enlisted in the Navy and commenced active duty on 16 October 2001. On 16 June 2004, Petitioner you received nonjudicial punishment for a violation of Art 134 of the Uniform Code of Military Justice, although no additional details on the underlying offense are available. Your enlisted evaluation report, through 17 June 2004, reported that you were not recommended for retention or advancement in the Navy until you demonstrated improvement. Your final enlisted evaluation report, through 10 September 2005, states that, "member has been unwilling to adapt to military life. Does not follow rules and regulations. Has been an average to below average Sailor his entire tour onboard Kitty Hawk. Need constant supervision." You were discharged on 14 October 2005 at the end of your required active service and assigned an Honorable characterization of service. You were also assigned an RE-3R reenlistment code; which notes you failed to professional growth criteria under Military Personnel Manual (MILPERSMAN) 1160-030. You were subsequently transferred to the Naval Reserve and later discharged from the Naval Reserve, on 30 July 2009, with an Honorable characterization of service and recommended for reenlistment.

In your current petition, you request that the Board reconsider its prior decision based on what you describe as new evidence. You also argue that while you were in service you were physically abused and had a hatch closed on your head which caused you to have a traumatic brain injury (TBI). You provided medical records and documentation from the Department of Veterans Affairs (VA) as new matter in support of your request for reconsideration.

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 reaching its decision, Board considered that in order to qualify for military disability benefits through the Disability Evaluation System (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 reviewing the new matter that you provided, the Board observed that it was unable to discern any new matter in your petition for reconsideration that demonstrated that you were unfit within the meaning of the DES while you were in service. It appeared to the Board that the medical and VA documentation that you provided was dated after the date of your separation from service and the material did not relate to any findings or recommendations relating to your fitness for service. The Board did not find that documentation to be persuasive. On this point, 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 determined that you provided insufficient evidence to overcome the prior decision of the Board. 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,

8/11/2025

