



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

██████████
Docket No. 5966-25
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 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 your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 20 May 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 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 the 27 March 2026 advisory opinion (AO) furnished by the Board's physician advisor. The AO was provided to you on 30 March 2026, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal to the AO, you did not do so.

A review of your record shows that you commenced active duty in the U.S. Marine Corps on 13 March 2006.

Approximately four months after your entry onto active duty (in July 2006), while home on leave, you were charged with driving while intoxicated (DWI). As a result, your driver's license was suspended, you were required to complete 16 hours of substance abuse rehabilitation classes, and you received non-judicial punishment (NJP). You would eventually (in September 2008) complete the Substance Abuse Rehabilitation Program (SARP) as a condition to regaining your license, during which you were diagnosed with "alcohol abuse."

In 2007, you deployed to [REDACTED] as a Rifleman with [REDACTED]

After returning from deployment, you injured your right shoulder when you fell down a manhole

Approximately a year after your surgery, you were referred to the Disability Evaluation System

While awaiting your Formal PEB, you assaulted another Marine, were confined, and ultimately

On 5 January 2010, you submitted a petition to the Formal PEB, in which you requested to be

Following your hearing, the Formal PEB found you unfit only for your right shoulder SLAP tear

Post-discharge records you submitted for the Board's review show that you were arrested

Finally, your Department of Veterans Affairs (VA) records reflect that the VA granted you

To assist in its consideration of your case, the Board obtained an AO from its clinical

Review of the available objective clinical and non-clinical evidence documented

appropriately referred him for PEB adjudication for this, and other identified potentially duty-limiting diagnoses. There was no evidence that his chain of command, primary care, or specialty care providers observed any changes in his psychological state or behaviors that indicated the presence of a mental health condition of sufficient severity as to compromise Petitioner's ability to perform his required military duties. Command concerns about a possible substance abuse condition were appropriately addressed with referral for evaluation and subsequent treatment when diagnosed with Alcohol Abuse. During the course of mental health evaluations for substance abuse, and during the course of his outpatient treatment, there was no evidence of a clinical history or observations during individual/group sessions by participating mental health staff providers suggestive of additional mental health concerns or conditions. Petitioner's other documented in-service mental health evaluation for insomnia and anxiety while incarcerated in the brig resulted in an Adjustment Disorder diagnosis contextually appropriate for his environment and circumstances. There were no other in-service clinical records indicating he sought evaluation or treatment for any other mental health symptoms or complaints..

In your application to this Board, you requested that your naval records be changed to reflect your retroactive placement on the Permanent Disability Retired List (PDRL), arising from unfitting PTSD. You contend that although you suffered significant PTSD-related symptoms during your service, you did not disclose them, as you feared they might prevent you from later becoming a police officer. You contend that you were not properly evaluated during your service for PTSD and other mental health conditions, and, had such an evaluation occurred, you would have been referred to the Disability Evaluation System (DES) and ultimately found unfit due to your mental health.

The Board notes that, in evaluating the official actions of public bodies and officers, it is bound to employ the presumption of regularity. Under that presumption, in the absence of substantial evidence to the contrary, the Board will presume that such public bodies and officers have properly discharged their official duties.

The Board carefully reviewed your application, supporting materials, and military record and ultimately concluded that you failed to meet your burden to prove, by a preponderance of the evidence, that the Department of the Navy's actions at the time of your discharge were erroneous (i.e., that the actions materially departed from then-applicable processes or standards, or that judgments made in the course of those actions were irrational) or unjust (i.e., that the actions, though not erroneous, were unjust under the particular circumstances of the case, either at the time or in retrospect).

In reaching its decision, the Board fully considered the Clarifying Guidance and employed the analytical framework outlined in the Vazirani Memo. Under that framework, the Board first applies liberal consideration to contentions that a mental health condition potentially contributed to the circumstances resulting in discharge to determine whether any discharge relief is appropriate. After making that determination, the Board then separately assesses claims of unfitness for continued service due to a medical condition (including 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.

In your case, you were honorably discharged. You did not request—nor could you have requested—discharge relief, as an Honorable discharge is the most favorable characterization of service. Thus, the first step of the Vazirani framework does not apply to your case.

The Board then turned to the second step of the Vazirani framework for its analysis of your request for disability retirement. Here, 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.

As an initial matter, the Board noted that you did not contend in your application that the Formal PEB's decision (i.e., unfit for your right shoulder injury, but fit for right patellofemoral syndrome, chronic osteochondritis, and dermatitis) regarding the conditions you claimed as unfitting in your Formal PEB petition was erroneous. The Board thus did not revisit that aspect of your DES process.

Regarding your claim of unfitness due to PTSD, the Board considered that in order to be found unfit through the DES, and thus to qualify for military disability benefits, a service member must be unable to reasonably perform the duties of their office, grade, rank or rating as a result of a qualifying disability that was incurred or aggravated during active military service. In evaluating whether a member can reasonably perform their duties, an evaluating PEB must consider deployability, common military tasks, physical fitness, and special qualifications. Alternatively, a member may be found unfit if: (1) their disability represents a decided medical risk to the health of the member or to the welfare or safety of other members; (2) the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or (3) the member possesses two or more conditions that have the overall effect of causing unfitness even though each condition, standing alone, is not separately unfitting.

In its review of the entirety of the available record, the Board concluded that you provided insufficient evidence to overcome the presumption of regularity and to prove, by a preponderance of the evidence, that the Marine Corps erred when it separated you with severance due to your right shoulder disability only.

In reaching this decision, the Board considered that no later than 4 June 2018, the VA rated you as 70% disabled due to service-connected PTSD, effective 25 October 2017. But the Board noted that VA disability ratings have a different purpose from IDES fitness determinations (which the VA does not and cannot make). VA disability ratings reflect occupational impairment caused by all service-connected medical conditions, including medical conditions and degrees of impairment that may have only a limited impact on an individual's ability to perform their assigned military duties (e.g., well-controlled chronic illnesses, minor joint pain, less severe mental health conditions). Therefore, while you were assigned a 70% disability rating for PTSD, this rating alone is not conclusive evidence that you were unfit for duty at the time of your discharge.

Further, VA ratings reflect diagnoses and levels of impairment at a specific point in time. In your case, your diagnosis with PTSD and the level of impairment that the VA assigned to that condition (i.e., 70%) reflect your condition as of 25 October 2017—more than seven years after your discharge from service. Therefore, that rating, without more, is not conclusive evidence of your unfitness for duty due to PTSD during your service.

As noted by the AO, your case file documents only two meaningful interactions between you and mental health providers during your service. The first occurred in the context of your SARP treatment. During that treatment, you were noted to “consistently display[] narcissistic traits and test[] the boundaries of SARP rules,” but after completing a biopsychosocial assessment and serial treatment sessions, your only psychiatric diagnosis was “alcohol abuse.” Your second encounter with mental health providers occurred in the context of your confinement to the brig for assault, during which you complained of sleep difficulties and anxiety—reactions that the AO assessed to be “contextually appropriate for [your] environment and circumstances.” Your record does not reflect additional in-service complaints of, or treatment for, any mental health condition, nor does the record reflect that any mental health provider believed your symptoms to preclude your reasonable performance of military duties.

The Board also reviewed the post-service non-medical evidence that you provided in support of your case. You contend that your divorce, 2016 disqualification from ██████████ employment, and arrests for possession of a controlled substance, harassment, and assault are evidence of your deteriorating mental health following your discharge. But there is no obvious nexus between these post-service events (many occurring years after your discharge) and your fitness for duty during your service, and you offer no objective evidence that such a nexus exists. The question at the center of your request to this Board is whether you were unfit due to a mental health condition prior to your discharge, not whether your condition subsequently deteriorated.

Due to the lack of evidence regarding your symptoms and level of impairment in-service, the Board has no independent ability to assess whether PTSD rendered you unfit prior to your separation. The AO likewise found that “the objective evidence contemporary to the time of Petitioner’s service did not support his contention he suffered from additional duty limiting conditions that prevented him from performing his required military responsibilities.” No medical provider referred you to a Medical Evaluation Board or the DES for evaluation of a mental health condition, and thus the presumption of regularity compels the Board to find that none of your in-service providers assessed that any mental health-related condition warranted such a referral or a fitness assessment by the PEB. Finally, you had the opportunity to contemporaneously argue that your state of mental health rendered you unfit for service, and you did not do so. Following your Informal PEB, you elected to proceed to the Formal PEB, which allowed you the opportunity to raise for the PEB’s review any conditions that you believed to be unfitting—not just those referred by your doctors. You did raise three additional conditions (apart from your referred right shoulder injury), but none of those three additional conditions related to your mental health. Although you now contend that you previously avoided reporting and discussing your mental health symptoms because of your concern that doing so might prevent you from becoming a police officer, your omission of any mental health condition from your Formal PEB petition is compelling evidence that you did not believe that such a condition rendered you unfit. Finally, it was not erroneous for the PEB not to find you unfit for a condition

that neither you nor your doctors raised to the PEB's attention as potentially unfitting and warranting a fitness evaluation.

In sum, following its review of the evidence, the Board found that you failed to meet your burden to prove, by a preponderance of the evidence, that the Marine Corps' actions at the time of your discharge were erroneous. Then, having found the Marine Corps' actions in this case not to be erroneous, the Board turned its attention to whether those actions were unjust, despite being appropriate under then-applicable standards and procedures. Following its deliberations, the Board found that you failed to show, by a preponderance of the evidence, that the unique circumstances of your case were such that a formally correct action nevertheless resulted in injustice.

The Board therefore concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. 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,

6/4/2026

