



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

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Docket No. 6702-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 was 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 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.

A review of your record reveals that you enlisted in the Marine Corps and commenced active duty on 5 December 2005. On 12 January 2010, you were referred to the Integrated Disability Evaluation System (IDES). On 17 March 2011, the Physical Evaluation Board (PEB) found you to be unfit with a 70% rating due to Post-Traumatic Stress Disorder (PTSD) (Combat Zone) along with several related conditions. On 24 March 2011, you executed your election of options (EOO) accepting the findings of the PEB. On 25 March 2011, President, PEB, informed the Commandant of the Marine Corps (CMC) that you were found to be unfit at 70% and that you were to be transferred to the Temporary Disability Retired List (TDRL). On 31 March 2011, the CMC informed you that you were being transferred to the TDRL. You were thereafter reviewed during a periodic physical examination (PPE). As a result of that PPE, on 11 December 2012, the PEB found you had improved to a 10% rating. You did not accept these findings and requested reconsideration of the PEB findings. On 3 January 2013, the PEB issued its decision on your request for reconsideration and continued to find you had improved to a 10% rating. On 4 January 2013, you requested to be reviewed by a Formal PEB. On 8 January 2013, you were informed that your request for a Formal PEB was granted, and it was scheduled to be conducted on 30 January 2013. However, on 5 February 2013, you decided to accept the prior findings of

the PEB; which resulted in the cancelation of the Formal PEB. That document contains a signature block of a disability attorney that had been assigned to you. On 2 May 2013, the CMC informed you were being discharged from TDRL, with severance pay, and you were so discharged.

In your petition, you request either to be returned to the TDRL or be placed on the PDRL. In support of your request, you contend that throughout the entire TDRL process you were very confused and did not understand the process. You further assert that the providers you saw during your TDRL evaluations all recommended that you be retained on the TDRL. You also argued that you were reevaluated in 2018, never received a determination, your disabilities continue to impact your daily life and are more than a 10% rating. In support of your request, you provided documents from the PEB and medical records, a personal statement, and a statement from your wife,

The Board carefully reviewed all of your contentions and all of the material that you submitted in support of your petition, and the Board determined that it found no error or injustice in your naval records with respect to your discharge from service and the reason for your separation. 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. In its review of this material, the Board determined that you provided insufficient evidence of an error or injustice in the PEB's decision that your disability condition was stable and that your rating should be decreased to 10%. Further, the Board observed that there is no evidence in available records, and you did not provide any, that the PEB conducted another review of your condition in 2018. As such, the Board was unable to find sufficient evidence to overcome the presumption of regularity that the PEB was correct in its assessment at the time you were on the TDRL or at your PPE. In consideration of your assertion that you did not understand the proceedings before the PEB, the Board observed that your EEO indicates that it was signed by a Physical Evaluation Board Liaison Officer (PEBLO) and the document you executed accepting the findings of the PEB reflects you had a disability attorney to assist you in understanding the process. The Board also observed that, contrary to your assertion that you were confused, you availed yourself of your right to seek higher review of the PEB findings by requesting reconsideration and thereafter demanded a Formal PEB. Those facts, coupled with the fact that you had a PEBLO and an attorney, belie your assertion that you were confused about the PEB process. 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

