



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. 6770-25
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.

A three-member panel of the Board, sitting in executive session, considered your application on 9 July 2025. 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.

A review of your record shows that you were commissioned in the Marine Corps and commenced active duty on 14 October 2013. On 1 February 2022, you reached your end of active service obligation and you were released from active duty.

In your petition, you request that your discharge be changed to a service disability retirement; with your retirement backdated to your separation date. In support of your request, you contend that, while you were on active duty, you were on limited duty status as a result of injuries and a partially successful shoulder surgery that you had in 2019. You further assert that you were kept on limited duty after testing found significant nerve issues along with other serious ailments, your command's limited duty coordinator informed you that "O-3's can't get medically retired," and you were told your best course was to simply separate at the end of your active service obligation even though you were entering a second and third period of limited duty. You explain that your command's limited duty coordinator was "flat out wrong" and your command should have sent you to a medical evaluation board (MEB), and, based on the totality of your diagnoses, found unfit, and been medically retired. In further support of your request, you provided a copy of a letter from the Department of Veterans Affairs (VA); which contained a rating decision dated 11 February 2022 that annotates you were found to be service connected for a variety of service connected disabilities.

The Board carefully reviewed your petition and the material that you provided in support of your petition and 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. In addition, the 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 your record, the Board concluded the preponderance of the evidence does not support a finding that there was an error or an injustice in your separation from service. In reaching its decision, the Board observed that it could find no evidence in your service records suggesting that you should have been referred to a MEB for further referral into the Disability Evaluation System (DES) while you were in service. The Board further observed that you provided no medical documentation containing such a recommendation, with your sole documentary evidence being a letter containing post-service findings by the VA. 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. In addition, a review of your available service records revealed that they do not contain, nor did you provide, any documents reflecting that you were unable to perform the duties of your office, grade, rank, or rating while in service. Similarly, your Certificate of Release or Discharge from Active Duty (DD Form 214) reflected that the actual reason for your discharge was the completion of your required active service. As such, you would have undergone a separation physical examination prior to your separation and if you were found unfit for separation it would have been noted.

In light of the foregoing, the Board determined that the documentary material that you provided, along with your argument in support of your requested relief, was insufficient to overcome the presumption of regularity. Therefore, the Board was unable to find an error or injustice in your naval record. 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,

7/25/2025

