



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. 6809-25
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 request 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 8 September 2014. While you were in service, you were reviewed by a medical evaluation board (MEB) and placed into the Integrated Disability Evaluation System (IDES). While in the IDES, you were reviewed by an Informal Physical Evaluation Board (IPEB); which reported ,on 3 July 2019, that you were unfit due to Left Shoulder Pain (Stable) at 20%. The IPEB found you had conditions that were not separately unfitting and did not contribute to the unfitting condition of Left Distal Clavicular Osteolysis and Left Shoulder Posterior Labral Tear. In its findings, the IPEB specifically noted that, "The disability did not result from a combat related injury as defined by Title 26 U.S. Code Section 104(b)(3)." In reaching its combat related determination, the IPEB specifically observed:

The PEB considered whether your unfitting disability was incurred in a combat zone (CZ), during combat-related operations CR(AC), or was combat-related (CR-IOW, SW, or HZ). The record available to the board did not contain objective evidence to show the conditions were incurred as a result of combat or in the combat zone as defined by DoDI 1332.18. Specifically, medical records reveal the member's initial complaint about his left shoulder pain on 7 Sep 2017 was made approximately one year after the claimed method of injury. Due to the lack of

contemporaneous documentation of the claimed injury the board is unable to characterize as CR/CZ unless specific evidence is made available.

You were provided the results of the IPEB and, on 8 July 2019, you filled out your Election of Options Form in which you indicated that you accepted the findings of the IPEB. On 10 July 2019, the President, Physical Evaluation Board (PEB) wrote to Commandant of the Marine Corps noting that you were found unfit and should be separated. On 29 September 2019, you were discharged in accordance with the findings of the IPEB, i.e., Disability, Severance Pay, Not Combat Related, IDES.

In your application, you request that the Board change your Certificate of Release or Discharge from Active Duty (DD Form 214) to reflect that your disability was combat related. In support of your request, you contend that the correction is required because your MEB and non-medical assessment (NMA) both confirmed that your disabling condition occurred while you were deployed and engaging in Marine Corps Martial Arts Program (MCMAP); which is simulated combat and meets the definition of combat related. You further argued that your DD Form 214 misclassifies this as non-combat, which is incorrect, and that, as a result, the Department of Veterans Affairs (VA) is wrongly recouping your \$25,554.00 in severance pay. You also argue that every document the Navy/ Marine Corps prepared during your medical separation listed your injury as a result of simulated combat and the only one that has it listed wrong is your DD Form 214.

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. In your case, the Board considered your contentions that all of the documentation while you were in service reflects that your unfitting condition was as a result of simulated combat. However, the Board observed, as noted above, that the IPEB in your case, which was the final deciding body, made a specific finding that your unfitting condition was not combat related. In doing so, the PEB provided a specific written rationale as to its finding. Your application to this Board did not provide any evidence or argument addressing the finding of the final decision of the IPEB. Thus, the Board was unable to reconcile your assertions, that your unfitting condition was found to be combat related, with the finding of the IPEB which specifically found your unfitting condition not to be combat related. In addition, while you were still in service, you had an opportunity to review the findings of the IPEB, and you actually accepted the findings of the IPEB. Thus, under these circumstances, the Board was unable to find an error or an injustice in your naval records with respect to the combat related nature of the unfitting condition for which you were separated from service. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief¹.

¹ In making this finding, the Board also found no evidence that you exhausted your administrative remedies by appealing the PEB combat related determination to the Office of the Navy Judge Advocate General (OJAG). As you acknowledged in your Election of Options Form, a determination by the PEB that a disability is not combat-related may be appealed by service members by letter to OJAG. The letter must be addressed to the Judge Advocate General of the Navy (Code 131), Washington Navy Yard, 1322 Patterson Ave SE, Suite 3000, Washington, DC 20374-5066.

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

