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

[redacted]
Docket No. 7053-25
Ref: Signature Date

[redacted]

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.

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").

A review of your record shows that you commenced active duty in the U.S. Navy on 6 January 2011.

In September 2021, you received the COVID vaccine, after which you complained of duty-limiting chest pain, both during exercise (described as "severe shooting pain from armpit to armpit") and at rest (described as "intermittent, mostly sternal, shooting pain"). Despite an extensive work-up over the course of two years (including cardiac event monitoring, cardiac stress testing, electrocardiogram, x-rays, CT scan, and orthopedic and sports medicine evaluations), your medical providers did not identify a clear etiology for your chest pain but hypothesized that it could be musculoskeletal in origin.

In March 2023, you were referred to the Disability Evaluation System (DES) for a fitness assessment due to chest pain. You chose not to submit a personal or rebuttal statement regarding your DES referral (either to contest your referral to the DES, or to identify other medical conditions as potentially unfitting), and you waived your right to an Independent Medical Review of your case.

In the context of your DES referral, the Department of Veterans Affairs (VA) rated your chest pain as "costochondritis with chest wall strain (also referred as unspecified chest pain)" under VA Diagnostic Code (DC) 5321 at a disability rating of 10%. The VA also rated you as 30% disabled due to "major depressive disorder, single episode, moderate, with anxious distress" under VA DC 9434.

On 4 December 2023, the Informal Physical Evaluation Board (PEB) found you unfit for continued service due to chest pain; however, you disagreed with the Informal PEB's findings and demanded a hearing before the Formal PEB.

In support of your impending Formal PEB (at which you would seek to be found unfit for a major depressive disorder), you sought a psychologist's opinion. The opinion recommended that your "[m]ental health concerns should be added to [your] claim given duration/severity" and stated, in part:

> Pt appears to be experiencing psychological distress in the context of ongoing health issues that have negatively impacted his Navy career and his ADLs. Although his symptoms have been mild/moderate for the past year, he does not appear to meet full criteria for any specific mood or anxiety disorder. Given his history and context, his symptoms are most aligned with a diagnosis of adjustment disorder, however, because his symptoms have persisted beyond 6 months, this diagnosis will not be used. It is likely that his mood/anxiety symptoms will improve once he has closure and is out of the military (vs being in limbo). Nonetheless, his symptoms have been consistent and chronic since the onset of his medical problem, thus, Other specified mental disorder due to a medical condition is deemed the most appropriate diagnosis.

On 1 March 2024, you submitted a petition to the Formal PEB, in which you requested to be found unfit for: (1) costochondritis with chest wall strain; and (2) major depressive disorder.

On 5 March 2024, you appeared telephonically before the Formal PEB. Following your hearing, the Formal PEB again found you unfit only for your chest pain. Explaining its determination that your claimed major depressive disorder did not render you unfit, the Formal PEB stated in its rationale:

> The uncertainty surrounding the cause of his physical condition, how or if it can be controlled, and the threat it poses to his military career, and by extension his livelihood, have all been a source of anxiety and stress . . . While [Petitioner] stated that he believed he was at times distracted in his work due to worry about the possibility of having a chest pain episode or the possibility of leaving the Navy, he similarly denied having any frank duty limitations or restrictions related to his

> mental health condition. This testimony is supported by the [non-medical] evidence, much of which acknowledges the stress that the member's condition and the DES process have caused him but failed to provide specific examples or observed ways in which the member's symptoms are severe or chronic enough to rise to the level of rendering him unfit for service. Thus, while the Board acknowledges that the member's physical condition has been a source of psychological strain for [him], it fails to find a preponderance of evidence in the record, the petition, or the member's testimony to conclude that his mental health symptoms render him unfit to reasonably perform the duties of his rank, rate, and office.

You again disagreed with the PEB's finding and, through counsel, appealed by filing a written Petition for Relief with the Council of Review Boards (CORB). In support of your appeal, you provided letters from friends, peers, and your command, which described your diminished productivity in the workplace, difficulty focusing, and evident stress. However, on 30 May 2024, the CORB denied your appeal and issued findings consistent with the Formal PEB's decision (i.e., unfit only for chest pain under VA DC 5321 at a 10% disability rating).

You did not file a Request for VA Rating Reconsideration to contest the DC under which the VA had rated your chest pain and/or argue for a higher disability rating. Therefore, on 28 August 2024, in accordance with the CORB's finding, the President of the PEB requested your separation with severance. On 16 October 2024, you were discharged with an Honorable characterization of service.

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 chest pain and major depressive disorder. You contend that the VA's rating of your chest pain was "improperly low" and the Board should therefore rate the condition at a higher disability rating (30% or higher) under a different DC (7005). You also contend that the Board should "acknowledge and incorporate the significant impact [your] secondary mental health condition has had on [your] ability to perform military duties, thus raising the combined disability rating above the threshold for medical retirement."

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 physical and mental health conditions as a discreet issue, without applying liberal consideration to the unfitness claim.

Regarding your claim that the PEB incorporated an "improperly low" VA disability rating of your chest pain into your PEB finding, the Board noted that the Department of Defense (DoD) Instruction governing the Integrated Disability Evaluation System (IDES) requires that the PEB apply ratings provided by the VA for unfitting conditions to establish a service member's DoD disability rating. The PEB may only make its own disability rating determination when the VA refuses to rate an unfitting condition.

In your case, the Informal PEB, Formal PEB, and CORB found you unfit due to "costochondritis with chest wall strain" (called "chest pain, unspecified" at the Informal PEB stage), which the VA rated under VA DC 5321 at a 10% disability rating. Under the applicable DoD Instruction, the PEB had no discretion to deviate from that DC or disability rating when it prepared your PEB finding. Therefore, your contention that the PEB should have rated your unfitting condition at a higher disability rating under a different DC, and your request that the Board do so now, is squarely contrary to the rules that govern the IDES process. The Board thus found that your request does not merit relief.

To the extent you disagree with the VA's rating of your chest pain, your remedy rests with the VA. You could have, but did not, file a Request for VA Rating Reconsideration while you were in the DES. And you have not submitted for the Board's review any evidence that you successfully exercised your appellate rights at the VA and thereby obtained a correction of your initial VA disability ratings.

Regarding your claim of unfitness due to major depressive disorder, 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 Navy erred when it separated you with severance due to your chest pain only.

In reaching this decision, the Board considered that on 11 October 2023, the VA published proposed (i.e., non-final) ratings in connection with your DES process, in which the VA rated you as 30% disabled due to service-connected major depressive disorder. 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 30% disability rating for major depressive disorder prior to your discharge, this rating alone is not conclusive evidence that you were unfit for duty at that time.

The Board noted that apart from your counsel's brief in support of your application, you provided no medical or non-medical documentation that you did not previously raise before the Informal PEB, Formal PEB, or CORB. And after a review of your record, the Board substantially concurs with the assessments of the Formal PEB and CORB that you were not unfit due to a mental health condition. Your record reflects that you were first diagnosed with a mental health condition (major depressive disorder) by a VA Compensation & Pension examiner on 28 May 2023 (i.e., over a month after your referral to the DES) in connection with your claim for disability benefits. One day later, you first sought mental health care through the Navy medical system, at which time you noted that your VA examiner had "recommended that [you] seek mental health services so it would be documented if [you were] experiencing [symptoms] for depression and anxiety." Your Navy provider did not concur with the VA examiner's diagnosis of major depressive disorder. Instead, you were diagnosed with "other specified mental disorder due to another medical condition," a diagnosis that remained consistent until your discharge from the Navy. Your provider recommended that you not handle firearms or be required to work outside of the local area but otherwise did not recommend any duty limitations (and you confirmed through testimony during your Formal PEB that you did not have any such limitations). You followed up intermittently on an outpatient basis throughout 2023 and into early 2024 (with sessions as frequently as once per week, and as infrequently as less than once per month) but were ultimately found not to meet full criteria for any specific mood or anxiety disorder. You engaged in psychotherapy through a clinical social worker and were never prescribed psychotropic medications. And while the command, peer, and family member statements that you submitted in support of your appeal to the CORB show that you were understandably distressed by your unpredictable chest pain and the likelihood that you would be medically discharged from service, you have not offered sufficient evidence to prove that mental

health-related symptoms rendered you unable to reasonably perform your job. The Board noted that the standards for fitness are not individualized, and a finding of unfitness is not warranted unless a medical condition renders a service member unable to perform at or above the minimum required standard. Your record simply does not reflect that you fell below that line due to disabling mental health condition as of your date of discharge.

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 Navy's actions at the time of your discharge were erroneous. Then, having found the Navy's 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

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Executive Director

Signed by: [redacted]