



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

██████████
Docket No. 7273-25
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.

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 8 April 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 determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

A review of your record shows that you enlisted in the U.S. Marine Corps and commenced active duty on 1 June 2004. During your more than nine years of active-duty service, you successfully qualified as a Reconnaissance Marine and completed advanced combat training including Basic Airborne, Scout Sniper, Combatant Diver, and Water Survival Instructor, among others. You deployed three times in support of Operations Iraqi Freedom (2007-2008) and Enduring Freedom (2008-2009 and 2013), and you were awarded a Combat Action Ribbon for actions taken while deployed to Afghanistan. You extended your initial period of obligated service through one re-enlistment and two voluntary extensions. Your last extension expired on 30 January 2014. Your fitness report (FITREP) for the period immediately preceding your discharge from active duty

(i.e., 1 April 2013 to 30 January 2014) described you as “One of the many highly qualified professionals who formed the majority of this grade” and stated:

“[Petitioner] is a competitive, bold, and intelligent leader of Marines. His intensity and passion set the example. He is trusted by leaders up and down the chain of command. MRO tirelessly works to develop his team into a cohesive . . . fighting unit. MRO is a strong leader who leads by example. [Petitioner] is a solid assistant team leader who held the team leader billet [during] the team leader’s absence. He is the hammer in his team and can always be counted on to accomplish the mission. He is a combat multiplier within the team. Recommend MRO for future employment in the USMC Reserves, retention and promotion.”

On 18 December 2013, you signed a three-year enlistment contract with the U.S. Marine Corps Reserve, with an effective date of enlistment of 31 January 2014 (i.e., one day after your scheduled end of active service). On 30 January 2014, you were honorably discharged from active duty at the completion of your required active service with a re-entry code of “RE-1B.” Post-service, the Department of Veterans Affairs (VA) determined you were “totally and permanently disabled due to . . . service-connected disabilities” effective 9 March 2020. You provided summary of benefits letter from the VA, dated 2 July 2025, that documented your disability status with the VA.

In your application to this Board, you requested that your naval records be changed to reflect your placement on the Permanent Disability Retired List (PDRL) effective upon your discharge from active duty, and that you receive all associated back pay and benefits dating to the effective date of your medical retirement. In your application, you contend that at the time of your discharge from active duty, asthma, rhinitis, and Post Traumatic Stress Disorder (PTSD) rendered you unfit for continued service and have become progressively worse. You were never informed of your Disability Evaluation System (DES) rights and unaware of that you could have requested a medical board. You only became aware after receiving your VA ratings for the conditions you claim were unfitting at the time of your discharge.

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 Marine Corps’ 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 following the completion of your active-duty service obligation. 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.

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 Physical Evaluation Board (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 found 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 at the expiration of your obligated active-duty service, instead of referring you to the DES for an evaluation of fitness and potential disability separation or retirement. In reaching this decision, the Board noted that your final FITREP, covering the period most relevant to your claim that you were medically unfit for service at the time of your discharge, was very positive and did not describe any deficiencies in your performance. In fact, the Board observed that you were described as a highly qualified Marine, recommended for retention and promotion, and also recommended for future service in the Marine Corps Reserve. Further, there is no evidence that your assignment as an Assistant Team Leader for a Marine Reconnaissance Company during that final evaluation period was in a limited-duty status. In fact, every indication, including your first class Physical Fitness Test score, was that you were a physically capable Marine. Thus, the Board concluded that records from the period in question demonstrate that you were effectively performing your Marine duties and contradicted your claim that physical disability conditions rendered you unfit for continued naval service. Further, because you were never referred into the DES, the presumption of regularity compelled the Board to conclude that none of your in-service

medical providers assessed that your medical condition met the criteria for referral and fitness evaluation. The Board also noted that your re-entry code at the time of discharge permitted re-enlistment. And, in fact, you did re-enlist with the Marine Corps Reserve for a three-year term, a possibility that would have been precluded had you been medically unfit for service at that time.

The Board also considered that, no later than 9 March 2020, the VA rated you as 100% disabled due to service-connected disabilities. However, the rating letter that you provided for the Board's review is an overall rating (i.e., in reference to all of your service-connected medical conditions) and does not contain sufficient information to describe the nature or severity of any individual disability—including the PTSD, asthma, and rhinitis that you claim should have been found unfitting. You also did not include any in-service medical records in your application materials. Thus, apart from your own contention that your VA-rated conditions “would have likely made [you] medically unfit for continued service” and the designation from the VA that you were totally and permanently disabled many years after your release from active duty, the record contains no contemporaneous evidence to refute the comments from your chain of command that you were a highly qualified Marine who performed your military duties in an effective manner. Thus, the Board determined your evidence was insufficient to overcome the presumption of regularity in your case. In making this finding, the Board also considered that VA disability ratings have a different purpose from IDES fitness determinations. 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 have been assigned an overall VA rating of 100%, this rating alone is not conclusive evidence that you were unfit for duty at the time of your discharge.

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' action 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.

Accordingly, given the totality of the circumstances, the Board determined 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,

4/22/2026

